



A REPORT  
TO THE  
ARIZONA LEGISLATURE

Performance Audit Division

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Performance Audit and Sunset Review

# Arizona Structural Pest Control Commission

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**Debra K. Davenport**  
Auditor General

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August 7, 2007

Members of the Arizona Legislature

The Honorable Janet Napolitano, Governor

Ms. Debra Runbeck, Chairperson  
Arizona Structural Pest Control Commission

Ms. Lisa Gervase, Executive Director  
Arizona Structural Pest Control Commission

Transmitted herewith is a report of the Auditor General, a Performance Audit and Sunset Review of the Arizona Structural Pest Control Commission. This report is in response to the May 24, 2005, and May 22, 2006, resolutions of the Joint Legislative Audit Committee. The performance audit was conducted as part of the sunset review process prescribed in Arizona Revised Statutes §41-2951 et seq. I am also transmitting with this report a copy of the Report Highlights for this audit to provide a quick summary for your convenience.

As outlined in its response, the Arizona Structural Pest Control Commission agrees with all of the findings and plans to implement or implement in a different manner all of the recommendations.

My staff and I will be pleased to discuss or clarify items in the report.

This report will be released to the public on August 8, 2007.

Sincerely,

Debbie Davenport  
Auditor General

Enclosure

# SUMMARY

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The Office of the Auditor General has conducted a performance audit and sunset review of the Arizona Structural Pest Control Commission (Commission) pursuant to May 24, 2005, and May 22, 2006, resolutions of the Joint Legislative Audit Committee. This audit was conducted as part of the sunset review process prescribed in Arizona Revised Statutes (A.R.S.) §41-2951 et seq.

Established in 1988 to replace the Structural Pest Control Board, the Commission's purpose is to protect the public from chemical harm and harm resulting from inadequate or improper structural pest control. Structural pest control includes controlling public health pests, aquatic pests, household pests, wood-destroying insects, fungi, and weeds. The Commission's various responsibilities include issuing and renewing licenses to pest control businesses and the pesticide applicators and qualifying parties (persons responsible for supervising, training, and equipping pesticide applicators) those companies employ, conducting inspections and complaint and inquiry investigations, and disciplining licensees who commit violations.

## Commission should improve inquiry and complaint processing (see pages 13 through 21)

While the Commission appropriately investigated most inquiries and complaints reviewed by auditors, it should ensure all inquiries and complaints are processed appropriately and in a timely manner. The Commission has the authority to investigate allegations of wrongdoing through both inquiry and complaint investigations. Statute defines inquiries as information regarding possible violations of statute or rules submitted by the public or commission staff. Commission staff conduct inquiry investigations to initially determine whether the Commission has jurisdiction over an alleged act, whether an alleged act occurred within the 5 years preceding the date of the inquiry, and whether a violation occurred. The Commission has delegated to its staff the authority to determine whether to close and purge an inquiry with no violations; or take action to remedy minor violations. If commission staff substantiate a violation of statute or rule and do not remediate the violation themselves, the violation is forwarded to the Commission for adjudication. Most public allegations of wrongdoing regarding pest control work begin as inquiries.

Commission staff adequately investigated most of the inquiry and complaint cases reviewed by auditors; however, the Commission needs to improve the timeliness of these investigations. Specifically:

- **Inquiry investigations**—Auditors’ review of a sample of 44 inquiries received between January 2004 and September 2006 found that only 15 inquiry investigations were completed within the Commission’s prescribed 60-day time frame. The remaining 29 inquiries required between 72 and 399 days to investigate.
- **Complaint investigations**—While the Commission allows 180 days to investigate and adjudicate complaints, auditors’ review of a random sample of 19 complaints the Commission received between January 2004 and May 2006 found that only 11 of these complaints were processed within 180 days. The remaining 8 complaints required between 198 and 364 days to process.
- **Combined complaint and inquiry investigations**—The Commission allows 240 days to investigate and adjudicate cases that begin as inquiries and result in complaints. However, auditors’ review of 19 inquiries the Commission received between January 2004 and May 2006 that became complaints found that only 8 met the 240-day processing time frame. The remaining 11 cases took between 242 and 609 days to process.

The Commission should take several steps to enhance its investigations’ timeliness. First, the Commission should establish internal time frames to complete the various investigation steps and monitor the progress of inquiry and complaint investigations against these time frames. To assist in monitoring investigations, the Commission should improve the quality of information in its inquiry and complaint databases by directing staff to enter investigation information in a timely and accurate manner. Additionally, the Commission should reduce its time frame for investigating and adjudicating inquiries that become complaints from 240 days to 180 days. The Commission should also ensure that it has sufficient staff resources to investigate inquiries and complaints by reviewing the responsibilities assigned to its investigators and other staff and prioritizing these responsibilities among its staff accordingly.

Finally, the Commission should improve its handling of inquiries that yield violations of statute or rule, but do not become formal complaints. Commission investigators address some violations found during inquiry investigations through education or by requiring a licensee to come into compliance. However, the Commission should establish and implement policies regarding which substantiated violations can be addressed by staff and which should be forwarded to the Commission for adjudication. Further, the Commission should retain inquiry case files in which the staff addressed violations, and include in these case files documentation of how staff addressed the violations and the licensees’ actions to return to compliance.

## Commission needs to better monitor inspections (see pages 23 through 31)

To ensure inspections of licensees are appropriately prioritized and conducted, the Commission needs to better monitor its inspections. While the Commission has established inspection goals, it did not meet its goal of conducting at least one use, vehicle, and office inspection for each licensed pest control company during the 2-year time period of fiscal years 2005 and 2006. For example, of the 812 pest control companies licensed during this time, 378 did not receive a use inspection, 324 did not receive a vehicle inspection, and 138 did not receive any inspections. However, 5 licensed companies received more than 50 use inspections each, including tag monitors. One of these licensed companies received 156 use inspections during this 2-year time period. The Commission has revised its inspection plan to better ensure licensees receive necessary inspections, but it should also improve its monitoring of inspections. Specifically, the Commission should continually monitor its inspectors' activities to ensure that it meets its goal of conducting at least one use, vehicle, and office inspection every 2 years, as well as ensuring that inspections are appropriately distributed among licensees.

To ensure inspections are adequately and consistently performed, the Commission should improve inspection guidance. The Commission's inspection procedures consist of inspection forms, statutes, and rules, but they do not provide sufficient guidance to inspectors in the field. The Commission has an inspection manual that details policies and procedures for inspections, but has not provided this manual to inspectors because of ongoing revisions. Therefore, the Commission should complete its inspection manual revisions, ensure that its inspectors are fully trained on inspection policies and procedures, and monitor inspector compliance with these policies and procedures.

Finally, the Commission should ensure that licensees take corrective action in all cases where violations are found during inspections. In February 2007, commission staff established procedures to indicate when on-site, follow-up inspections are necessary to ensure compliance. According to a commission official, before this time, the Commission lacked written procedures, but inspectors would visually confirm corrective action if warranted by the violation. Additionally, the Commission should establish and implement procedures requiring staff to randomly select submitted notices of corrective action for verification.

### Inspection Types:

**Use Inspection**—Involves inspections to ensure licensees' pesticide applications are proper and safe. Includes tag monitors, inspections of termite treatment applications that involve a review of information recorded on a tag at the application site.

**Vehicle Inspection**—Involves inspections of pesticide storage and safety equipment on vehicles to ensure licensees maintain all required equipment on vehicles.

**Office Inspection**—Involves inspections of office records to ascertain whether the licensees properly maintain required records.

Source: Structural Pest Control Commission official.

## Commission should further improve its information management systems (see pages 33 through 39)

The Commission should continue improving its information management systems to more effectively manage the agency and better protect the public. The Commission maintains several different databases that contain information on licensees, inquiries and complaints, and inspections, but there are several impediments to using the databases. For example, some database information is unreliable because of untimely data entry or inadequate controls, or may be inaccurate. Additionally, commission management and staff cannot easily access the information they need to perform their work and provide necessary oversight. Specifically, while the databases can potentially provide the functionality to create and provide several reports with useful information to management and staff, for the most part, these reports have not been created. Finally, database documentation, which explains how the databases function and can be used, is insufficient.

The Commission initiated efforts to improve its information management systems by working to obtain funding for additional IT staff and for a consultant to assist with database documentation. According to the fiscal year 2008 *State of Arizona Appropriations Report*, the Commission received authorization to hire an additional IT staff person and spend \$10,000 for a consultant to provide customer service, maintain IT systems, and create documentation for the existing databases. Additionally, IT staff have begun assessing management's need for various management reports. However, there are only two IT staff members, and other IT projects have been designated as higher priorities. The Commission should monitor the progress of these other priorities and determine when resources would become available to begin developing management reporting capabilities. Additionally, the Commission should develop and implement policies and procedures for data handling, including data entry, and for testing the data that resides in the databases. Finally, the Commission should upgrade its Web site to allow public users to obtain complaint history information regarding licensed companies and individuals through the Internet.

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# INTRODUCTION & BACKGROUND

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The Office of the Auditor General has conducted a performance audit and sunset review of the Arizona Structural Pest Control Commission (Commission) pursuant to May 24, 2005, and May 22, 2006, resolutions of the Joint Legislative Audit Committee. This audit was conducted as part of the sunset review process prescribed in Arizona Revised Statutes (A.R.S.) §41-2951 et seq.

## Purpose and responsibilities

Established in 1988 to replace the Structural Pest Control Board, the Structural Pest Control Commission's purpose is to protect the public from chemical harm and harm resulting from inadequate or improper structural pest control. Structural pest control includes controlling public health pests, aquatic pests, household pests, wood-destroying insects, fungi, and weeds. The Commission does not regulate pesticide applications used directly in the commercial production of crops and animals. This is regulated by the Arizona Department of Agriculture.

The Commission'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 the residents of Arizona, and protection of their property and the environment.*

The Commission has various responsibilities, including:

- Issuing and renewing licenses to pest control businesses and the pesticide applicators and qualifying parties those companies employ;
- Conducting investigations and hearings concerning potential violations of statute or administrative rule;
- Disciplining licensees that have committed violations; and
- Inspecting pest control companies to protect the public from harm resulting from improper pest control.

By performing these functions, the Commission also meets its responsibility under the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), which grants states the primary responsibility for enforcing pesticide regulation.

In addition to the activities listed above, statute also requires that each time a pest control company inspects or treats a structure for termites it must submit a Termite Action Registration Form (TARF) and a filing fee to the Commission within 30 days. Statute requires the form to include information on the termite inspection or treatment, including the name of the business performing the work and the type and date of the work performed. The information from these forms is maintained in a database, which is made available to the public upon request.

## Licenses

**Business License**—Entitles the licensed person or entity and that person's or entities' employees to engage in the business of structural pest control.

**Licensed Applicator**—A person who applies pesticides and conducts wood-destroying insect and fungi inspections.

**Qualifying Party**—A person responsible for supervising training, and equipping pest control business applicators.

Source: Auditor General staff analysis of A.R.S. §32-2301 and information provided by a commission official.

## Licensing

As required by statute, the Commission issues licenses to businesses, applicators, and qualifying parties. As of January 10, 2007, the Commission reported that there were 1,006 licensed businesses, 6,995 licensed applicators, and 1,217 licensed qualifying parties in Arizona. In 2006, the Commission reported approving 2,859 applicator and 178 qualifying party applications, and issuing 80 business licenses.

Table 1 (see page 3) illustrates each group's statutory licensing requirements. Applicators and qualifying parties are licensed in various categories, including general pest control, control of wood-destroying insects, fumigation, wood-destroying insect inspection, and aquatic pest control. Additionally, statute states that any individual working for a licensed business has 90 days from the date of employment to obtain an applicator license in all appropriate categories. The Commission and its staff have a total of 130 days to review and approve the application.

Licensees must renew their licenses annually by submitting a form prescribed by the Commission and paying the prescribed fee (see Table 1, page 3). In addition to paying these fees, applicators and qualifying parties must submit proof of 6 hours of continuing education from the previous 13-month period for each of their licensing categories.

## Pest Control Licensing Categories

**Wood-Destroying Insect Control**—Control and prevention of wood-destroying insects.

**Right-of-Way and Weed Control**—Control of terrestrial weeds around structures in nonagricultural areas.

**Fumigation**—Use of fumigants as a method of pest control.

**Turf and Ornamental**—Control of plant pests and diseases, and the use of plant growth regulators on plantings and turf in nonagricultural areas.

**Fungi**—Inspection to identify existence or absence of fungi.

**Wood-Destroying Insect Inspection**—Inspection to identify existence or absence of wood-destroying insects.

**Aquatic Pest**—Pests in water bodies.

**General and Public Health Pest Control**—Pest control in and about households or structures other than the above categories.

Source: Auditor General staff analysis of the Commissioner's report *License Category Definitions and Conversion Chart*.

Table 1: Licensing Requirements

Type of License	Applicator	Qualifying Party	Business
<b>Initial</b>	<p>Pass core and category exams with scores of at least 75 percent</p> <p>Pay \$30 licensing fee and an additional \$48 for each test category</p>	<p>Possess an applicator license</p> <p>Within the 5 years prior to application, must have 3,000 verifiable hours of practical experience in the structural pest control business or 2,000 hours of practical experience and 12 semester hours of education or its equivalent in subjects directly related to each category for which the person is applying</p> <p>Pass fingerprint and background checks</p> <p>Pass core and category exams with scores of at least 75 percent</p> <p>Obtain commission approval</p> <p>Pay licensing fee of \$150 and an additional \$48 for each test category</p>	<p>Provide proof of financial responsibility, such as a deposit of money, liability insurance, or a surety bond</p> <p>Identify an active, licensed, qualifying party</p> <p>Hold a trade name filed with the Arizona Secretary of State's Office or be incorporated by the Arizona Corporation Commission</p> <p>Complete a license application supplement including ownership status; Limited Liability Corporation applicants must provide articles of organization or incorporation</p> <p>Obtain commission approval</p> <p>Pay \$75 licensing fee and an additional \$35 for each branch registered</p>
<b>Annual Renewal</b>	<p>Submit proof of 6 continuing education credits in the previous 13 months</p> <p>Pay \$25 licensing fee if applying in paper or \$20 if applying online</p>	<p>Submit proof of 6 continuing education credits in the previous 13 months</p> <p>Pay \$125 licensing fee if applying on paper or \$120 if applying online</p>	<p>Pay \$75 licensing fee if applying on paper or \$70 if applying online and an additional \$35 for each branch registered</p>

Source: Auditor General staff analysis of A.R.S. §§32-2312 through 32-2314; Arizona Administrative Code R4-29-105, 204-207, and 215; commission licensing application packets; and Metro Institutes' Web site, the company contracted to provide testing for the Commission's licensees.

According to statute, the Commission must also oversee and approve continuing education programs. Specifically, A.R.S. §32-2319 requires licensees to verify attendance at programs of instruction that are overseen and approved by the Commission. Administrative rule R4-29-216 further specifies that only continuing education approved by the Commission may be used to satisfy continuing education requirements and indicates what continuing education programs must address to receive approval. Through its Web site, the Commission provides a continuing education provider application packet, provider requirements for approval, and guidance for completing the application materials. Additionally, according to a commission official, commission staff periodically attend continuing education courses to help ensure course content is consistent with state pesticide laws and regulations.

## Inquiry and complaint resolution

According to statute, the Commission must investigate all potential violations of state law (called “inquiries”) and all complaints against licensees received within 5 years of the alleged act. A.R.S. §32-2321 lists 16 actions that constitute statutory violations that are grounds for disciplinary action. These various actions include making falsified or fraudulent records/reports or not providing these reports within 3 business days of a request by the property owner, the owner’s agent, or a commission representative, misrepresenting a material fact in obtaining a license, and misusing various pesticides, such as applying pesticides in a manner that is inconsistent with the pesticide label requirements or that may cause undue harm to the public. A felony or misdemeanor conviction arising from or in connection with a pest control license issued by the Commission is also considered a violation.

Inquiries and complaints are generated by the public, other pest control companies, and commission staff. A.R.S. §32-2304 allows the Commission to conduct an inquiry into an alleged violation before opening a formal complaint, and A.R.S. §32-2301 defines an inquiry as information from the public or commission staff of possible violations of statute. The Commission’s staff conduct inquiry investigations to initially determine whether the Commission has jurisdiction over an alleged act, whether an alleged act occurred within the 5 years preceding the date of the inquiry, and whether a violation has occurred. If a minor violation of statute or administrative rule is found, commission staff can take action to remedy it as long as there is no direct or immediate effect on public safety, health, or property damage. However, if commission staff either substantiates or potentially substantiates a violation during an inquiry investigation that is not minor in nature, staff initiates a formal complaint, and the work performed during the inquiry investigation becomes part of the complaint investigation. However, if the inquiry investigation reveals that the allegation is outside the Commission’s jurisdiction, beyond the 5-year statutory limitation, or unsubstantiated, the inquiry is closed. The Commission’s goal is to process inquiries within 60 days and complaints within 180 days. According to the Commission’s inquiry and complaint databases, the Commission opened 176 inquiries and 72 complaints in 2006.<sup>1</sup>

In 2006, the Commission opened 176 inquiries and 72 complaints.

When violations are substantiated, statute permits the Commission to either enter into a settlement agreement with the licensee or send the case to hearing at the Office of Administrative Hearings (OAH). If the licensee rejects the proposed settlement, the Commission has the option of sending the case to administrative hearing, or returning it to settlement conference, or dismissing it. If the Commission imposes discipline, either through a formal hearing or settlement agreement, it can use one or more of the following options:

<sup>1</sup> Auditors’ review of the complaint database revealed that insufficient controls were in place to establish the reliability of the database for any information other than general background information. According to a commission official, the database was not intended to be used for more than this.

- Revoke, suspend, or refuse to renew a license;
- Impose a probation that requires licensees to comply with one or more specific provisions and requires reporting by or monitoring of the licensees;
- Impose a civil penalty in an amount of not more than \$1,000 for each violation; or
- Issue advisory notices for minor violations, known as de minimis violations.

Additionally, the Commission can issue cease-and-desist orders to unlicensed structural pest control businesses.

For complaint cases sent to administrative hearing, the Commission can accept, reject, or modify the administrative law judge's findings, conclusions, and recommended order at a public meeting. The Commission reported entering into 59 settlement agreements in calendar year 2006.

### Disciplinary Statistics for Federal Fiscal Year 2006

26	Licenses revoked
21	Licenses suspended
5	Licensees placed on probation
66	Civil penalties
92	Administrative warnings
7	Cease-and-desist orders issued
29	Other actions such as ordering continuing education, reporting to the Commission, or extending service warranties.

Source: Pesticide Enforcement and Applicator Certification Cooperative Agreement Accomplishment Report filed with the Environmental Protection Agency by the Commission for the period October 1, 2005 through September 30, 2006.

In 2006, the Commission reported conducting 2,247 inspections.

## Inspections

As authorized by state law, the Commission inspects pest control companies to protect the public from harm resulting from improper pest control. There are three primary types of inspections: office, use, and vehicle. According to a commission official, office inspections include verifying that licensed pest control companies properly maintain required records, use inspections verify proper and safe pesticide applications, and vehicle inspections include verifying that the chemical storage and safety equipment on vehicles is maintained. The Commission reported that 2,247 inspections were conducted in calendar year 2006.

Additionally, the Commission conducts use inspections as established in a cooperative agreement with the United States Environmental Protection Agency (EPA).<sup>1</sup> This agreement required the Commission to conduct the following inspections for federal fiscal year 2006: 10 wood-destroying insect pesticide applications at any location, 10 pesticide applications at schools, 10 pesticide applications at food establishments, 10 pesticide applications at healthcare facilities, 20 pesticide applications at golf courses and aquatic areas, and 20 other pesticide applications.<sup>2</sup>

<sup>1</sup> The Commission has a cooperative agreement with the EPA in which it agrees to monitor specialized locations for pesticide use violations. The EPA reimburses the Commission for these inspection costs.

<sup>2</sup> Other pesticide applications include inspections of applications in other license categories, such as Turf and Ornamental, General Pest, and Fumigation.

## Organization and staffing

The Commission comprises seven members who the Governor appoints for no more than two consecutive 3-year terms. The Governor is required to appoint three industry members with a minimum of 5 years of structural pest control experience. Additionally, statute requires industry members to have a combination of experience in all of the licensing categories and represent large and small companies in both urban and rural areas. Likewise, at least one of the three industry members must have an active business license with five or fewer employees. The Governor is also required to appoint three public members who have had no involvement with the structural pest control industry for at least 5 years. Finally, one appointee must be an entomologist, plant pathologist, toxicologist, medical doctor, osteopathic doctor, or individual with a public health or occupational health degree and have at least a baccalaureate degree. As of June 22, 2007, the Commission was composed of:

- Two industry members;
- One entomologist;
- Two public members who are attorneys;
- One public member who is a retired administrator of a state-wide Arizona pest control association; and
- One vacancy.

For fiscal year 2007, the Legislature authorized a total of 35 full-time equivalents (FTEs) for the Commission. As of July 2007, the Commission reported having a total of 32 staff, with 3 vacancies. In addition to an executive director, the Commission has an assistant director responsible for overseeing licensing, compliance, and enforcement operations; and an administrative services officer responsible for administrative and financial operations. The Commission also has 2 information technology specialists and 4 administrative or financial specialists. The remainder of the commission staff includes 4 licensing staff, 11 inspection and investigation staff, 2 inspection and investigation supervisors, 2 project specialists, 1 inspector of the day/public information officer, and 3 regulatory compliance staff.

## Followup to 1996 performance audit and sunset review

The Office of the Auditor General previously performed a performance audit and sunset review of the Commission in 1996 (see Report No. 96-18). During this current performance audit and sunset review, auditors followed up on two issues raised in the prior report:

- **Commission can improve inspection program**—The 1996 audit found that the Commission did not conduct regular inspections of pest control companies. The lack of written time frames for inspections, ineffective and inaccurate inspection tracking system, and insufficient supervisory oversight contributed to the Commission’s inability to inspect many pest control companies. Additionally, the Commission’s computer system could not determine which companies had been inspected or were due for an inspection. During the current audit, auditors determined that the Commission still needs to take steps to better monitor inspections of pest control companies to ensure inspections are appropriately prioritized and conducted (see Finding 2, pages 23 through 31).
- **Commission can improve collection of termite action report form (TARF) fees and information**—The 1996 audit found that the Commission did not ensure that pest control companies properly filed TARFs and made few efforts to monitor the information’s accuracy or completeness on TARFs that were filed. The audit determined that TARFs provided important information to both the public and pest control companies, and that their associated fees provided the Commission with significant revenue. During the current audit, auditors found that the Commission has established procedures for filing TARFs (see Sunset Factors, page 43).

## Budget

The Legislature appropriates monies to the Commission from the Structural Pest Control Commission Fund annually. The Fund contains revenues derived principally from licensing fees and charges for services, such as TARF filing fees. The Commission deposits 90 percent of its fees, including charges for services, into the Fund and remits the remaining 10 percent to the State General Fund. The Commission deposits all monies from civil penalties into the State General Fund. Table 2 (see page 8) illustrates the Commission’s actual revenues and expenditures for fiscal years 2005 and 2006 and estimated revenues and expenditures for fiscal year 2007. As shown in Table 2, the Commission received nearly \$3.4 million in revenues in fiscal year 2006 and will receive an estimated \$2.3 million in revenues in fiscal year 2007. This represents a 31.1 percent decrease in revenues. According to a commission official, this can be attributed to declining new home construction, resulting in reduced revenue from TARF filing fees, as the need for termite pre-treatment services diminished. While commission expenditures totaled more than \$2.1 million in fiscal year 2006, estimated expenditures increased to \$2.4 million in fiscal year 2007. Approximately 60 percent of the increase, or \$197,600, was due to the Commission’s share of salary and employee-related expenditure increases for state employees. An additional \$100,000 in expenditures is for two FTEs to enforce a law that provides schools and childcare facilities with advance notice of pesticide applications on their premises. The Commission estimated an approximate \$2.86



**Table 2:** Schedule of Revenues, Expenditures, and Changes in Fund Balances  
Fiscal Years 2005 through 2007  
(Unaudited)

	2005 (Actual)	2006 (Actual)	2007 (Estimate)
<b>Revenues:<sup>1</sup></b>			
Charges for services	\$2,192,918	\$2,532,059	\$1,842,400
Licenses, permits, and fees <sup>2</sup>	524,518	624,223	339,500
Federal grants	140,222	150,161	109,500
Fines, forfeits, and penalties	103,955	69,835	40,000
Other		<u>9,822</u>	
Total revenues	<u>2,961,613</u>	<u>3,386,100</u>	<u>2,331,400</u>
<b>Expenditures:<sup>3</sup></b>			
Personal services and employee-related	1,370,442	1,519,932	1,838,450
Professional and outside services	96,635	161,382	128,641
Travel	160,838	127,397	117,837
Other operating	321,966	282,455	310,249
Equipment	<u>82,714</u>	<u>18,169</u>	<u>41,534</u>
Total expenditures	<u>2,032,595</u>	<u>2,109,335</u>	<u>2,436,711</u>
Excess (deficiency) of revenues over expenditures	<u>929,018</u>	<u>1,276,765</u>	<u>(105,311)</u>
<b>Other financing uses:</b>			
Operating transfers out	13,574	7,244	6,000
Remittances to the State General Fund <sup>4</sup>	<u>406,458</u>	<u>416,344</u>	<u>259,240</u>
Total other financing uses	<u>420,032</u>	<u>423,588</u>	<u>265,240</u>
Excess (deficiency) of revenues over expenditures and other financing uses	508,986	853,177	(370,551)
Fund balance, beginning of year	<u>1,870,685</u>	<u>2,379,671</u>	<u>3,232,848</u>
Fund balance, end of year	<u>\$2,379,671</u>	<u>\$3,232,848</u>	<u>\$2,862,297</u>

<sup>1</sup> The Commission anticipates that total 2007 revenues will decrease by approximately 30 percent due to a decline in the housing market.

<sup>2</sup> License, permit, and fee revenues are reported net of fees paid to the credit card processor of approximately \$6,000 and \$10,500 in 2006 and 2007, respectively. Beginning in 2006, the Commission began accepting payment online using credit cards and incurs fees for credit card processing. The Commission anticipates that these fees will continue to increase as more payments are made online.

<sup>3</sup> Administrative adjustments are included in the fiscal year paid.

<sup>4</sup> As required by A.R.S. §32-2305, the Commission remits 10 percent of fees and 100 percent of all collected civil penalties to the State General Fund.

Source: Auditor General staff analysis of the Arizona Financial Information System (AFIS) *Revenues and Expenditures by Fund, Program, and Organization* and *Trial Balance by Fund* reports for fiscal years 2005 and 2006; and commission-provided estimates for fiscal year 2007.

million fund balance at the end of fiscal year 2007. Despite this balance, the Commission cannot hire additional staff outside of the 35 FTEs authorized by the Legislature for fiscal year 2007.

The Commission's estimated fund balance at the end of fiscal year 2007 is \$2.86 million.

## Scope and methodology

This performance audit and sunset review focused on the Structural Pest Control Commission's inquiry and complaint investigation processes, its approach and processes for inspecting licensed pest control companies, and the management and use of its databases, which contain critical information on inquiries, complaints, licensing, and inspections. The Commission's performance was also analyzed in accordance with the 12 statutory sunset factors. This report includes findings and recommendations in the following areas:

- While the Commission appropriately investigated most of the inquiries and complaints reviewed by auditors, it should improve the timely processing of inquiries and complaints, and better handle substantiated inquiries;
- While the Commission has revised its approach and process for conducting inspections of licensed pest control companies, it needs to ensure that these changes are implemented and improve its monitoring of these inspections; and
- The Commission should continue improving its information management systems, including the use of its databases, and further ensure the database information's reliability and accessibility.

Auditors used various methods to study the issues addressed in this report. These methods included interviewing commission members, the Commission's Executive Director, commission staff, the Commission's Attorney General representative, an official from the United States Environmental Protection Agency, and representatives from Arizona stakeholders industry groups; attending commission meetings; and reviewing statutes, rules, and commission procedures.

Additionally, the Commission maintains multiple databases, including separate databases for inquiries, complaints, licensing, and inspections. Auditors attempted to validate information in these databases for use and analysis during the audit. For each of these databases, auditors determined the following:

- **Complaint database**—Auditors' review of the complaint database controls determined they were not adequate. For example, according to a commission official, database information that predates mid-2004 is not reliable due to factors such as giving multiple people, including temporary employees, the

ability to enter data, and not cross-checking the data entered into the database against complaint case files. Additionally, although commission officials report that database access has been limited and data entry cross-checked since mid-2004, data entry has not been standardized for information such as company names and allegations, resulting in inconsistent information in the database, and some information is missing, such as when the complaint investigation was completed. As a result, auditors decided to use information from this database to report only on general background information.

- **Inquiry database**—Auditors requested and received a download of the inquiry database in September 2006 to conduct validation test work. Test work involved determining the completeness, accuracy, and reliability of three fields (closure date, inquiry number, and receive date) necessary to assess the timeliness of 77 open inquiries as reported in the database. Specifically, auditors compared the inquiry received date and number contained in 23 open and closed inquiry case files to the database. This information from the 23 files was accurately reflected in the database, except for 1 received date that was off by 1 day in the database.

Based on the reliability of the inquiry number and received date, auditors decided to use the database to report on the number of inquiries opened by the Commission. After September 2006, commission staff entered a closure date for several of the open inquiries in the database. Therefore, auditors conducted further test work on the 77 inquiries. For these 77 cases, commission staff located 62 case files. Auditors compared closure date information in the 62 case files to the database. Based on this review, auditors found that the case closure dates in the database were inaccurate for 21 of the 62 inquiries, while 6 of the case files contained closure dates that were not recorded in the database. Further, auditors could not confirm the database closure dates for 15 inquiry case files that could not be located.<sup>1</sup> As a result, auditors decided to use information from this database only to report on the number of inquiries received.

- **Licensing database**—Auditors' control work suggested that basic controls were in place for the licensing database. Therefore, auditors requested and received a download of this database in September 2006 to conduct validation test work. This test work involved comparing information in the licensing files for a random sample of 30 licensees licensed between July 1, 2004 and June 30, 2006, and a random sample of 26 licensees that were either not licensed for this full time period or were inactive for reasons such as a suspended license or the company being closed. Based on this work, auditors decided to use information from this database.
- **Inspections database**—Auditors' control work suggested that basic controls were in place for the inspections database. Therefore, auditors requested and

<sup>1</sup> Some of these 15 case files may have been purged, as allowed by statute, but auditors cannot confirm how many had been purged.

received a download of this database in September 2006 to conduct validation test work. This test work involved comparing information in the inspection files for all the inspections performed for a random sample of 30 pest control companies to information in the inspections database download. Auditors determined that when information from inspection forms was entered into the database, it was entered accurately. Auditors decided to use information from this database even though they could not verify the accuracy of 7 of the 66 vehicle and office inspections sampled and 7 of the 58 use inspections sampled because of missing inspection forms and identified 1 office inspection form and 2 use inspection forms that had not been entered into the database. Auditors determined that the amount of missing data was not material to their conclusions.

In addition, the following specific methods were used:

- To assess the timeliness and adequacy of both inquiry and complaint investigations, auditors reviewed and conducted analyses of the following:
  - A random sample of 19 of the 104 inquiries that resulted in complaints the Commission received between January 1, 2004 and June 30, 2006; and
  - A random sample of 25 of the 131 closed inquiry cases the Commission received between September 22, 2004 and September 27, 2006.
- To assess the Commission's process for prioritizing and conducting inspections of licensed pest control companies, auditors reviewed and analyzed data from the Commission's licensing and inspection databases, which contain information about the number of licensed pest control companies and inspections the Commission performed; reviewed the Commission's Neutral Inspection Scheme, which establishes the inspection priorities for licensees; and reviewed the revised inspection approach for prioritizing additional inspections developed during the audit, the inspector's manual, and inspection forms. In addition, auditors contacted an official with the Association of Structural Pest Control Regulatory Officials.
- To develop information regarding the Commission's information management, auditors reviewed the Commission's various databases, the progress of its database integration efforts, and other IT projects with the Commission's IT Director and staff. Auditors also reviewed the Commission's fiscal year 2008 and 2009 budget request and JLBC's recommendations regarding that request. Finally, to determine what information was available to the public regarding complaints against licensees, auditors reviewed the Commission's Web site and made two phone calls to the commission offices requesting complaint history information.

- To develop information for the Introduction and Background, auditors reviewed the Auditor General's 1996 performance audit and sunset review of the Commission (see Report No. 96-18) and gathered and analyzed unaudited information about the Commission from the Arizona Financial Information System (AFIS) *Revenues and Expenditures by Fund, Program, and Organization and Trial Balance by Fund* reports for fiscal years 2005 and 2006, the fiscal year 2007 *State of Arizona Appropriations Report* for the Commission, information from various commission databases, information from the Commission on the number of FTEs, and other agency documents.

This audit was conducted in accordance with government auditing standards.

The Auditor General and staff express appreciation to the commission members, Executive Director, and their staff for their cooperation and assistance throughout the audit.

# FINDING 1

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## Commission should improve inquiry and complaint processing

While the Commission appropriately investigated most inquiries and complaints auditors reviewed, it should take steps to ensure the timely and appropriate processing of all inquiries and complaints. Statute authorizes the Commission to investigate allegations of wrongdoing through both inquiries and complaints. Auditors' review of a random sample of 44 inquiries and complaints found that most were adequately investigated. However, the Commission did not meet its established time frames for more than half of the inquiries and complaints auditors reviewed and should take steps to improve these investigations' timeliness. Additionally, the Commission can improve its handling of substantiated inquiries by establishing policies regarding which substantiated violations it should address versus those that staff can remedy, as well as ensuring its staff document the action taken and retain a record of the inquiry.

## Commission conducts both inquiry and complaint investigations

The Commission has the authority to investigate allegations of wrongdoing through both inquiry and complaint investigations. A.R.S. §32-2304 authorizes the Commission to receive and appropriately handle inquiries, which statute defines as information regarding possible violations of statute or rules submitted by the public or commission staff. As such, commission staff conduct inquiry investigations to initially determine whether the Commission has jurisdiction over an alleged act, whether an alleged act occurred within the 5 years preceding the date of the inquiry, and whether a violation has occurred. These investigations typically involve interviews with the complainant, licensee, and other witnesses; a review of pertinent documentation (such as treatment records or pesticide label requirements); and potentially, an inspection of the licensee. Consistent with statute, if the allegation of a

violation cannot be substantiated during the inquiry investigation, the case is closed and not reported to the public, and the inquiry is purged/destroyed 6 months after closing. The Commission has delegated to its staff the authority to determine whether to close and purge an inquiry with no violations, or take action to remedy minor violations that have no direct or immediate effects on public safety, health, or property damage. Most public allegations of wrongdoing regarding pest control work begin as inquiries, and according to the Commission's inquiry database, the Commission opened 176 inquiry cases during calendar year 2006.

If commission staff either substantiate or partially substantiate a violation of statute during their inquiry investigation that is not minor in nature, the inquiry case then becomes a complaint. Once an inquiry becomes a complaint, commission staff send a notice of complaint to the licensee, obtain the licensee's written response, and complete any additional necessary investigative steps before forwarding the complaint to the Commission for consideration and adjudication. The Commission adjudicates the complaint, either by dismissing the complaint or by taking any number of disciplinary actions authorized by statute either through a settlement agreement or formal hearing. In some cases, an allegation of wrongdoing will begin as a complaint rather than an inquiry. For example, if a commission inspector finds evidence of a potential violation during an inspection of a licensee, a complaint could be opened. According to the Commission's complaint database, the Commission opened 72 complaints in calendar year 2006.<sup>1</sup>

## Most inquiries/complaints adequately investigated

Commission staff adequately investigated most of the complaints auditors reviewed. Auditors reviewed a random sample of 44 inquiries and complaints the Commission received between January 2004 and September 2006 and determined that 42 of these inquiries and complaints were adequately investigated.<sup>2</sup> For these inquiries and complaints, commission staff typically performed a variety of investigative steps, such as interviewing the complainant, licensee, or other witnesses; collecting sufficient evidence/documentation; and writing a detailed investigative report. In addition, the appropriate supervisors reviewed the investigations. Auditors determined that two cases could have benefited from additional investigation to better support commission staff's decision to close these cases. Specifically, in one case, investigators made only one attempt to contact a key witness before closing the case. In the other case, the inspection report did not clearly indicate that some important information was collected, such as whether the applicator's personal protection equipment was used. The Commission has established investigation checklists and supervisory reviews, which staff followed for the 42 cases and which help ensure that staff conduct adequate investigations.

<sup>1</sup> Auditors' review of this database revealed that insufficient controls were in place to establish the reliability of the database for any information other than general background information.

<sup>2</sup> These 44 cases consisted of a random sample of 25 closed inquiries the Commission received between September 22, 2004 and September 27, 2006, and a random sample of 19 inquiries that resulted in complaints the Commission received between January 1, 2004 and May 24, 2006.

## Many inquiries/complaints not resolved in timely manner

Although the Commission has established time frames to process inquiries and complaints, it does not consistently meet them. Specifically, more than half of the cases auditors reviewed for timeliness were not processed within the Commission's established time frames. As a result, the Commission should take several steps to improve investigation timeliness, including establishing internal time frames for each investigative step, adopting a 180-day standard to investigate and adjudicate inquiries that become complaints, monitoring the progress of inquiry and complaint investigations, and reviewing its investigators' additional responsibilities.

Commission consistently missed established time frames for handling inquiries and complaints—Although the Commission has established time frames for inquiry and complaint investigations, many cases auditors reviewed were not processed according to these time frames. Specifically:

- **Approximately one-third of inquiry investigations conducted in a timely manner**—The Commission requires inquiry investigations to be completed within 60 days. However, auditors' review of 44 inquiries received between January 2003 and September 2006 found that only 15 inquiry investigations were completed within 60 days.<sup>1</sup> The remaining 29 inquiries required between 72 and 399 days to investigate, including 3 inquiries that took more than 1 year to investigate.
- **Slightly more than one-half of complaints processed in a timely manner**—The Commission allows 180 days to investigate and adjudicate complaints. Auditors reviewed 19 randomly selected complaint files the Commission received between January 2004 and May 2006. For these 19 complaints, 11 were processed within 180 days, while the remaining 8 complaints required between 198 and 364 days to process.
- **Less than one-half of the combined inquiries and complaints processed in a timely manner**—The Commission allows 240 days to investigate and adjudicate cases that begin as inquiries and result in complaints. Based on auditors' review of 19 inquiries the Commission received between January 2004 and May 2006 that became complaints, only 8 met the 240-day processing time frame. The remaining 11 cases took between 242 and 609 days to process.

Only 15 of 44 inquiries reviewed were investigated within the prescribed time frame.

Eleven of 19 complaints reviewed were processed within the prescribed time frame.

Eight of 19 combined inquiry and complaint investigations reviewed were processed within the prescribed time frame.

Untimely inquiry and/or complaint investigations affect the Commission's ability to protect the public. For example, although the Commission can issue a corrective work order while the investigation is ongoing, it cannot take disciplinary action against pest control workers or companies until the investigation is complete.

<sup>1</sup> The 44 inquiries auditors reviewed consisted of a random sample of 25 of the 131 closed inquiry cases the Commission received between September 22, 2004 and September 27, 2006, and a random sample of 19 of the 104 inquiries that resulted in complaints the Commission received between January 1, 2004 and May 24, 2006.



Commission should take steps to conduct investigations in a more timely manner—Auditors identified several steps the Commission should take to conduct inquiry and complaint investigations in a more timely manner:

- **Establish internal time frames for investigation processes**—Although the Commission has established the basic steps for investigating an inquiry or complaint, it has not established internal time frames for completing each of these steps. Creating time frames to complete each of the different phases of the process could help the Commission ensure that cases are not unattended for extended periods of time. For example, auditors' review of 7 of the 19 randomly selected inquiries that became complaints the Commission received between January 2004 and May 2006 found significant and unexplained lapses in activity during the investigation process for 2 of the 7 cases. These 2 cases had a total of 3 unexplained lapses in the case files, which ranged from 135 days to 156 days. Investigative time frames can also help the Commission assess where bottlenecks in the investigation process may occur and then take necessary action to address those bottlenecks. Thus, the Commission should establish specific time frames for each phase of its investigative process.
- **Commission should revise its time frames**—As previously mentioned, the Commission has established a 240-day time frame to process its investigations that begin as inquiries and end in complaints. However, the Commission should ensure that the number of days from inquiry receipt to complaint adjudication is no longer than 180 days, which is a reasonable amount of time to investigate and adjudicate these cases. Based on auditors' review of the 19 inquiries that became complaints the Commission received between January 2004 and May 2006, the inquiry portions of 14 of these investigations were sufficiently thorough to substantiate the violations. During the complaint portion of investigation, inspectors were required only to mail an official notice of complaint, receive the licensee's written response, and if necessary, document one or two other investigative items. Despite conducting most of the investigation during the inquiry phase for these 14 complaints, only 5 were investigated and adjudicated within 180 days.
- **Monitor inquiry and complaint investigation progress**—Once the Commission establishes time frames, it should improve its management of its complaint and inquiry databases to better monitor the progress of investigations against these time frames. As previously mentioned, auditors' review and tests of these databases found some information to be potentially unreliable and inaccurate. For example, many inquiries were fully investigated, the case files closed, and in some cases purged, before all inquiry case file information was entered into the inquiry database. Additionally, according to a commission official, some of the information for complaint cases is not entered until after the Commission has completed the investigation and adjudicated the case. As such, these databases cannot be used to track the progress of inquiry and complaint investigations.

The Commission should adopt a 180-day time frame to investigate and adjudicate complaints.

The Commission's inquiry and complaints databases contain potentially unreliable and inaccurate information.

Therefore, the Commission should develop and implement procedures that direct staff to enter information from inquiry/complaint investigative activities in a timely and accurate manner and verify the information's accuracy. To assist staff in consistently entering necessary data, the Commission should add fields to the existing data entry form for 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. Once the Commission has established these procedures, the Commission's Executive Director should generate and review monthly management reports that track the progress of inquiry and complaint investigations and ensure that the internal time frames of the investigative processes are met. (See Finding 3, pages 33 through 39, for additional information regarding information management.)

- **Commission should assess staff responsibilities**—The additional responsibilities that have been assigned to investigators may contribute to the untimely investigations. Specifically, investigative staff are also responsible for performing inspections of licensees. Inspection activities require significant investigator time as the Commission reported performing nearly 2,250 inspections during fiscal year 2006. According to a commission official, investigators spend an estimated 45 percent of their time conducting inspections.

To help ensure that it investigates inquiries and complaints in a timely manner, the Commission should ensure that it has sufficient staff resources to investigate complaints by reviewing the responsibilities assigned to its staff and prioritizing these responsibilities accordingly. After the Commission assesses its needs, it should determine whether it can 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. The Commission would have the funding capacity to hire additional staff as it estimates it will have a \$2.86 million balance in its Fund as of June 30, 2007.

## Commission can better handle substantiated violations

In addition to investigating inquiries and complaints in a more timely manner, the Commission should improve its handling of inquiries that yield violations of statute or rule, but do not become formal complaints. Commission staff address some violations identified during inquiry investigations through education and/or by requiring a licensee to come into compliance. However, the Commission has not established policies regarding the types of violations that can be handled in this manner, nor has it ensured that its staff document their actions.

**De minimis violation**—A violation that, although undesirable, has no direct or immediate relationship to safety, health, or property damage.

Source: A.R.S. §32-2301(5).

As allowed by law, in some cases, staff have addressed substantiated violations.

Some substantiated violations are handled informally—Commission practice directs that upon completing the inquiry investigation, the Inspector Supervisor(s) and Assistant Director of Enforcement and Compliance review the completed inquiry investigation and determine whether to close the inquiry, send the inquiry to the Commission as a complaint, or remediate de minimis violations through education and compliance.

Auditors reviewed a random sample of 25 closed inquiry cases the Commission received between September 2004 and September 2006 and found that 5 cases were closed despite commission staff substantiating at least one of the indicated allegations. As allowed by law, instead of sending the substantiated violation to the Commission, staff addressed the violations through education and/or by requiring the licensee to come into compliance. For example, for an inquiry the Commission received in September 2005, an apartment complex employee had engaged in the unlicensed application of pesticide. According to a commission official, staff educated those involved that a license was required. However, the file does not clearly document this action, nor does it include documentation specifying the need and time frame for corrective action.

Commission should improve management of substantiated violations—Specifically, the Commission should:

- **Establish and implement policies to guide commission staff actions for violations**—The Commission has not established any guidance regarding the types of violations that can be considered de minimis and addressed by staff versus those more serious violations that should be reviewed and adjudicated by the Commission itself. Therefore, the Commission should establish and implement policies regarding 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. For example, the Commission might determine that it should review and adjudicate violations involving unlicensed activity or failure to provide treatment records, while staff could handle other, more minor violations, such as providing treatment records in a commission-approved format or proper placement of signage on vehicles.

In addition, although the Commission may take disciplinary action against a person for willful and repeated de minimis violations, it has not established any guidance for its staff regarding the frequency or types of violations that would be considered willful and repeated and therefore should be forwarded to the Commission for possible action. For example, repeated violations could signify any number of violations that occur within a specified time period, such as four violations within 5 years, or could signify two or more similar violations regardless of when they occur. Therefore, the Commission should establish

and implement policies that clearly define for its staff willful and repeated violations, including such criteria as the number and frequency of occurrence, that would require staff to forward them to the Commission.

- **Document enforcement actions**—In addition to establishing and implementing policies directing the types of violations that its staff can handle, the Commission should ensure that its staff document both the staff's actions taken to educate and remediate these violations and the licensee's actions to return to compliance. For example, although a commission official reported that staff took actions to address the substantiated violations in four of the five inquiries reviewed by auditors, only one of the five inquiry files contained documentation of the action. This documentation included written instructions regarding the statute that was violated, a brief description of the violation, an explanation regarding how and when the licensee should comply, an official warning that failure to provide written evidence of correction may result in additional enforcement action, and the licensee's signature. However, the remaining four cases did not contain similar documentation, and it is unclear what action staff took. Therefore, 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, statute or rule violated, and an explanation of the corrective action required and associated time frame for the licensee to comply.

Further, commission staff should appropriately document the licensee's actions taken to return to compliance. While four of these five inquiry files contain documentation of the licensee's return to compliance, one of the five files does not. In this inquiry, even though two separate violations regarding treatment records are substantiated, there is no evidence in the file indicating that the licensee made any corrections at all. Thus, the Commission should ensure that for inquiry cases in which staff remedied violations, the licensee's return to compliance is documented in the case file.

The Commission should also retain a record of inquiries with substantiated violations, including documentation supporting the licensee's return to compliance. As allowed by law, the Commission purges closed inquiries from its records, regardless of whether a violation was substantiated. By closing and purging inquiries with substantiated violations, the Commission will not retain a record of the violation, the action staff took as a result of the violations, and the documentation supporting the licensee's return to compliance. As A.R.S. §32-2321(N) authorizes the Commission to take disciplinary action in the event of willful and repeated de minimis violations, documentation of these violations and commission staff and licensees' actions would be needed to help support any potential disciplinary action.

The Commission should retain a record of inquiries with substantiated violations.

## Recommendations:

1. The Commission should establish specific time frames for each phase of its investigative process.
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.
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.
4. The Commission's Executive Director should generate and review monthly management reports that track the progress of inquiry and complaint investigations and ensure that the internal time frames of the investigative processes are met.
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.
6. After the Commission assesses its needs, it should determine whether it can 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.
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 occurrence that would require staff to forward violations to the Commission.
- 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.
- 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.
- 10. The Commission should retain a record of inquiries with substantiated violations, including documentation supporting the licensee's return to compliance.



# FINDING 2

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## Commission needs to better monitor inspections

To ensure inspections of licensees are appropriately prioritized and conducted, the Commission needs to better monitor its inspections. Although the Commission has an established plan for prioritizing inspections in which each licensed business should receive three types of inspections every 2 years, many licensees have not received these inspections. Improved monitoring of inspections would help ensure that the Commission inspects all licensees. Additionally, the Commission should implement and monitor the use of its revised inspection manual and forms to ensure complete and consistent inspections. Finally, the Commission should ensure that licensees take appropriate corrective actions to address violations identified during inspections.

## Commission has not met inspection goals

While the Commission established a plan outlining its inspection goals, it did not meet these goals for fiscal years 2005 and 2006, and its plan did not sufficiently guide the inspections that were performed. Performing inspections represents a critical activity for the Commission as they help to detect, and in some instances prevent, potentially hazardous situations for the public. However, between July 1, 2004 and June 30, 2006, many licensees did not receive all prescribed inspections, including 138 of its 812 licensees that received no inspections at all, while several licensees were inspected numerous times.

Inspections help ensure safe use of pesticides—Inspections protect the public by helping ensure that licensees properly and safely use and apply dangerous pesticides. When properly conducted, inspections can detect violations of statutes and rules that have been established to protect the public from health hazards and financial loss as a result of the misuse of pesticides. For example:



Inspections can identify various violations, including pesticide leaking from equipment.

- **Vehicle inspection violation**—According to a commission inspector supervisor, an inspection identified malfunctioning equipment on a licensee’s vehicle that had the potential for hazards if not corrected. Specifically, during a vehicle inspection, a commission inspector noted a leak in the equipment that was being used to transfer pesticide. This leak potentially could have resulted in off-site contamination leading to potential hazards for those coming in contact with the leaking pesticide.
- **Use inspection violation**—Inspectors conducted an inspection of a termite pre-treatment application at a construction site. The applicator was not wearing the clothing required by the chemical product label when making the application. Also, the applicator applied no more than 120 gallons of the chemical rather than the more than 900 gallons that should have been applied. In addition, the applicator left a falsified tag at the site that indicated that she applied 1,074 gallons of the chemical. These violations, in addition to past violations for this business licensee, resulted in a fine for the business licensee and the revocation of the applicator’s license. This inadequate pre-treatment application could have resulted in future costs to the site owner for termite damage.

**Many licensees have not received inspections**—Although the Commission’s plan prescribes that licensees should receive three types of inspections at least once every 2 years, several licensees have not received these inspections. In 2003, the Commission established an inspection plan specifying that each licensed business should receive a use, vehicle, and office inspection at least once every 2 years. However, auditors’ review of the inspections performed by the Commission for the 2 years between July 1, 2004 and June 30, 2006, determined that many licensees did not receive the prescribed inspections. According to the Commission’s licensing database, 812 pest control companies had licenses during this time, and thus were eligible for inspections. Of these, 378, or 47 percent, did not receive a use inspection, which according to a commission

official is the most important type of inspection, as these inspections are most likely to identify violations that could result in health and environmental hazards. Additionally, 324 licensees, or 40 percent, did not receive a vehicle inspection, and 256 licensees, or 32 percent, did not receive an office inspection. Finally, only 377 of the 812 licensees, or 46 percent, received all three inspections, while 138 licensees, or 17 percent, received no inspection at all between July 1, 2004 and June 30, 2006.

Nearly 47 percent of licensees did not receive a use inspection in fiscal years 2005 and 2006.

### Inspection types:

**Use Inspection**—Involves inspections of licensee’s pesticide applications to ensure they are proper and safe. Includes tag monitors, inspections of termite treatment applications that involve a review of information recorded on a tag at the application site.

**Vehicle Inspection**—Involves an inspection of pesticide storage and safety equipment on vehicles to ensure the licensee maintains all required equipment on vehicles.

**Office Inspection**—Involves an inspection of office records to ascertain whether the licensee properly maintains required records.

Source: Structural Pest Control Commission official.

Some licensees have received many inspections—While many licensees did not receive at least one use, vehicle, and office inspection in the 2 years between July 1, 2004 and June 30, 2006, some licensees received many inspections. For example, while 378 of the 812 licensed companies did not receive a use inspection, 5 licensed companies received more than 50 use inspections each, including tag monitors. Although the Commission conducted use inspections related to both main and branch offices for 3 of the 5 licensed companies, one licensee received 156 use inspections during that 2-year time period. In fact, the Commission actually conducted a greater number of inspections between July 1, 2004 and June 30, 2006, than its goal required. Specifically, the Commission reported conducting 4,888 inspections during this time, yet only needed to conduct 2,436 inspections to meet its goal of each of its 812 licensees receiving a use, vehicle, and office inspection. According to a commission official, some companies received numerous inspections because they are large companies and work extensively in termite control, a category in which there are a higher number of consumer complaints. However, despite focusing inspections on these companies, some companies licensed to provide termite control services did not receive any use inspections during this time.

Despite some licensed companies not receiving any use inspections, 5 received more than 50 each.

## Commission should improve monitoring to meet revised inspection plan and goals

The Commission has revised its inspection plan to better ensure licensees receive necessary inspections, but it should also improve its monitoring of inspections. The Commission has revised its plan to more systematically direct and determine the number and distribution of inspections. In addition to implementing this approach, the Commission should better monitor inspections to ensure inspection goals are met and inspectors adhere to its plan.

Commission revised its inspection approach—During the audit, the Commission revised its approach for determining the number and distribution of inspections. While the Commission’s inspection plan that was in place when the audit was initiated established a goal of conducting a use, vehicle, and office inspection for each licensed business at least once every 2 years, this plan provided minimal direction regarding additional inspections. Specifically, this plan did not establish how these additional inspections should be distributed among licensees in the various licensing categories. For example, the plan did not specify the number of additional inspections to be performed in each license category, nor did it specify the distribution of these inspections among inspectors.

The Commission's revised inspection plan still requires each licensed business to receive at least one use, vehicle, and office inspection every 2 years, and provides enhanced guidance and direction for performing additional inspections of licensees. This guidance specifically focuses on conducting additional use inspections. As previously mentioned, use inspections are most likely to result in the detection of potential health and environmental hazards. In its revised plan, the number of additional use inspections to be conducted each month is determined by the category in which the pest control work is performed.<sup>1</sup> Categories in which large numbers of companies provide services and in which numerous applications are done, such as general pest and termite control, are allotted a higher percentage of total use inspections than categories in which relatively few companies provide services, such as fumigation and fungi. Based on these percentages, the plan identifies the actual number of inspections per category that each inspector should complete on a monthly and annual basis. The plan also includes a monthly distribution of use inspections to be conducted at specialized locations (e.g., schools, food establishments, and healthcare facilities) to meet the requirements of a cooperative agreement with the United States Environmental Protection Agency (EPA).<sup>2</sup>

The Commission should ensure that its revised inspection plan is fully implemented by monitoring the distribution of inspections that are performed. It should also 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.

**Commission should better monitor inspection activity**—While the Commission's revised inspection plan will not ensure that each licensee receives at least one use, vehicle, and office inspection every 2 years, improved monitoring of inspections can. The Commission has not actively monitored the numbers and types of inspections performed by its inspectors. While inspectors are assigned to perform inspections within specific geographic areas throughout the State, and the resulting inspection information is generally available through the Commission's inspection database, until January 2007, the Commission lacked procedures directing supervisory review and monitoring of inspection activities. According to a commission official, supervisors also did not generate reports that track inspection activity to ensure each licensed business received an appropriate number of inspections. This same official indicated that responsibilities related to inquiry and complaint investigations have also detracted from supervisors actively monitoring inspection activity.

In January 2007, the Commission established procedures requiring the supervisory review and monitoring of inspection activities. The Commission should ensure that its supervisors follow these procedures to help ensure that the distribution of inspections performed is appropriate, including that each licensee

<sup>1</sup> Licensees are licensed to perform services in various categories, such as termite control, weed control, fumigation, and aquatic pests.

<sup>2</sup> The Commission has a cooperative agreement with the EPA in which it agrees to monitor specialized inspections for pesticide use violations. The EPA reimburses the Commission for the costs of these inspections.

receives at least one use, vehicle, and office inspection every 2 years. The Commission should also establish and implement procedures requiring its inspection supervisors to generate monthly management reports to track inspection activities. This will help ensure that inspection goals are met, as well as ensuring that the numbers and types of additional inspections performed are consistent with the Commission's plan. According to a commission official, supervisors have instructed their inspectors on the number of inspections needed and will track and document the inspections that are conducted.

Monthly management reports would help track inspection activities against the inspection plan and goals.

To help document and track inspections, as well as to use available information to help guide inspection activity, the Commission should enhance and appropriately use its various databases. The Commission can use its inspection database to monitor inspection status and its other databases to obtain relevant information to guide inspection activity, but there are limitations with these databases that prevent accessing and using all available information. As such, the Commission needs to improve these databases. (See Finding 3, page 33 through 39, for more details regarding database limitations and recommended improvements).

## Commission should further improve inspection guidance

In addition to ensuring that all licensed companies receive inspections, the Commission should take additional steps to improve these inspections' adequacy and consistency. Specifically, while the Commission uses inspection forms and relies on statute and administrative rules to guide its inspections, these materials do not provide sufficient guidance regarding appropriate inspection procedures. Therefore, the Commission should develop and implement more detailed inspection policies and procedures by completing revisions to its inspection manual and providing it to inspectors.

**Inspection forms do not provide sufficient guidance**—In addition to using statute and administrative rules, the Commission has provided inspectors with inspection forms to help guide the performance of inspections. These inspection forms denote the general areas that should be reviewed during inspections. According to a commission official and inspector supervisor, the information in the inspection forms, along with statute and rule, should sufficiently assist inspectors in properly performing inspections. However, the guidance in the forms is insufficient to ensure inspectors consistently and properly perform inspections. Auditors' observations of inspections where the inspectors used the forms found that some necessary steps were incorrectly performed. For example:

Commission inspectors have not received adequate guidance to perform inspections.

- **Compliance with pesticide labeling requirements not properly checked**—As part of a use inspection, inspectors should determine if the applicator appropriately follows the pesticide labeling instructions. However,

the form does not contain procedures for checking this information. According to a commission official, when inspecting for this requirement, the inspector should question the applicator as to where on the label it allows him/her to make the application and confirm that the applicator indicates the part of the label that shows that the correct product is being used. By requiring the applicator to demonstrate that the application of the pesticide is consistent with the product's labeling, the inspection helps to ensure proper pesticide application. However, auditors' observation of a use inspection determined that the inspector noted that the applicator complied with the pesticide labeling instructions regarding the targeted pest without questioning the applicator.

- **Compliance with filing requirements for Termite Action Report Forms (TARFs) not properly checked**—As part of an office inspection, inspectors should determine if the business licensee is filing TARFs with the Commission for each termite treatment. However, the inspection form does not contain procedures for checking this. According to a commission official, when inspecting for this requirement, the inspector should compare the company's contracts or billing records against a printout of the Commission's database record of all the TARFs filed with the Commission. This ensures that the company has filed forms for each termite pretreatment that it has done. However, auditors' observation of an office inspection determined that the inspector compared a database printout of the TARFs filed by the company to the copies of the TARFs. However, the inspector did not review contract or billing records to determine if termite pre-treatment work had been done for which no TARFs had been filed with the Commission.

The Commission has drafted separate inspection forms for vehicle and office inspections to better reflect the associated inspection activities that should occur for each type of inspection. Previously, commission staff used one form for both inspections, and this form provided inadequate guidance to inspectors regarding the performance of these two types of inspections. However, according to a commission official, the new forms will not be implemented until corresponding database changes can be made to allow the new forms to be entered. This official stated that these database changes will not be implemented until other high-priority changes are made. (See Finding 3, pages 33 through 39, for more information on planned database changes.)

**Commission needs to implement and monitor compliance with revised policies and procedures**—While the Commission developed an inspection manual, according to auditors' observations and interviews with individual inspectors, this manual is not used to guide the performance of inspections. According to one inspector, since becoming an inspector in November 2004, that inspector had not been provided with an inspection manual or any other written materials regarding inspection procedures and was not even

aware that an inspection manual existed. Another inspector indicated that although he had helped develop the inspection manual in approximately 2001 and 2002, he was under the impression that none of the inspectors used it. Additionally, during auditors' observations of inspections by two separate inspectors, no inspection manual was used. According to commission officials, the manual has not been used because it is in revision to include more comprehensive information on how to conduct inspections, supervisory responsibilities for inspections, and data entry instructions.

The Commission needs to finalize revisions to its inspection manual and then implement and monitor inspectors' compliance with these changes. During the audit, a commission official agreed that written procedures would be helpful, and as a result, commission staff are revising some of the policies and procedures within the inspection manual, as well as developing new ones. According to a commission official, the manual will also include guidelines for supervisors with regard to checking inspectors' compliance with the revised inspection plan for conducting inspections, information on reports used and how to use them, and instructions on how to enter and retrieve data from the databases. According to a commission official, training was provided to all inspectors and inspector supervisors in May and June 2007 using the latest draft of the inspector manual. During this training, as discussions regarding the manual were held and further revisions suggested, the Commission planned to incorporate these revisions prior to finalizing the manual.

The Commission should complete the revisions to its inspection manual, including incorporating revisions that were suggested from its training, and ensure that all inspectors and supervisors are fully trained on the inspection materials, including all policies and procedures. Once the inspection manual has been finalized, the Commission should implement the revised forms and policies and procedures. Additionally, as new inspectors are hired, the Commission should ensure they are fully trained on these materials. Finally, the Commission should monitor inspectors' compliance with the policies and procedures by requiring supervisors to periodically observe inspections and by frequently meeting with inspectors to ensure they understand the policies and procedures.

The Commission is revising its inspection manual.

## Commission should ensure licensees correct inspection violations

While the Commission requires licensees to correct violations identified during inspections, it does not ensure that licensees take corrective action in all cases. According to a commission official, licensees should provide the Commission with a written notice of correction within 20 days of the inspection to indicate that any

Some inspections identifying violations lacked evidence that the licensee took corrective action.

violations or items of noncompliance have been corrected. However, based on a review of 54 office or vehicle inspections conducted between July 1, 2004 and June 30, 2006, that resulted in 27 inspections with violations or noncompliance items, auditors identified 7 inspections that lacked evidence or documentation indicating that the licensee took corrective action. Without documentation and, in some cases, followup, the Commission has no assurance that the licensee appropriately addressed the violation or noncompliance item.

Therefore, the Commission should establish and implement procedures for its staff to follow to ensure that licensees take corrective actions to address violations or noncompliance items. For some violations, depending on the seriousness and nature of the violation, this may require a follow-up visit by an inspector. According to a commission official, while inspectors would visually confirm corrective action if warranted by the violation, the Commission lacked written procedures guiding these activities. In February 2007, the Commission established procedures indicating the types of violations that require a follow-up visit. The Commission should ensure that its inspectors follow these procedures and establish additional procedures requiring inspectors to randomly select submitted notices of corrective action for verification.

## Recommendations:

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 receives 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.
2. To better guide its inspectors, the Commission should:
  - a. Complete its revisions to its inspection manual, including incorporating revisions suggested from the planned 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.
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.
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.





# FINDING 3

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## Commission should further improve its information management systems

The Commission should continue to improve its information management systems to more effectively manage the agency and better protect the public. While the Commission relies on various databases for managing information, concerns about the reliability of some of these databases and staff's inability to readily access information in these databases impede their use. The Commission has begun addressing some of these issues, but should take additional steps to ensure the reliability of its databases. Additionally, by improving databases reliability, the Commission should be able to improve public access to this information through its Web site, including access to complaint information.

### Inadequate information management creates difficulties

The Commission uses various databases to track its activities, but impediments to the use of these databases make accessing and reviewing necessary information difficult for commission staff and the public. Specifically, while the Commission maintains several different databases, the information in some of these databases is unreliable, and commission staff cannot readily access needed information. As a result, both commission staff and the public do not have access to timely and reliable information to make decisions.

#### Commission Databases

**Licensing**—Contains information such as the license status of companies and the categories in which the company is licensed.

**Complaint**—Contains information such as when a complaint was received and the complaint allegations.

**Inquiry**—Contains information such as when an inquiry was received and whether an inquiry becomes a complaint.

**Inspections**—The inspections database includes information such as when an inspection was performed, the inspection type, and the company or individual inspected.

**TARFs**—The TARF database, called CompuTAR, is the database the Commission uses for the submission of TARFs by pest control businesses.

Source: Auditor General staff analysis of commission databases and information provided by commission staff.

Impediments exist to effective database use—Commission management faces some obstacles to the effective use of its databases. The Commission has developed several databases to track and maintain key management information on licensing, complaints and inquiries, inspections, and TARFs. These databases contain information such as the license status of pest control companies, complaint allegations, and information on the number and types of inspections performed. These databases are maintained by the Commission’s Information Technology (IT) section, which consists of two staff members. However, the unreliability of some of these databases, including inadequate controls over data entry in the complaint database, the need for extensive IT assistance for basic report generation, and the lack of sufficient documentation to guide database use, affect management and staff’s ability to effectively use this information. Specifically:

The inquiry database contains some inaccurate and unverifiable data.

- **Some databases contain unreliable information**—Based on auditors’ review, closure date information in the inquiry database for some inquiries was determined to be inaccurate or could not be verified. Based on an open inquiry report dated September 7, 2006, the inquiry database indicated that 77 cases were open. However, during the audit and in response to auditors’ questions regarding the timely investigation of inquiries, commission management entered a closure date for several of these open inquiries. For some of these inquiries, the inquiry file had been placed into a complaint file and a closure date was available. In 15 cases, the inquiry file was not available, leaving no case file information from which to determine the closed date.<sup>1</sup> In these cases, commission management relied on recollections of staff to help estimate the closure date. Auditors reviewed all 62 available inquiry case files and compared the closure dates from these files to closure dates on the inquiry database. This review revealed that although 6 of the 62 files had a close date in the file, no close date had been entered in the database. Additionally, for 21 of the 62 cases, the closure date in the database was inaccurate, although in 7 cases the discrepancy was only 1 day. In the remaining 14 of 21 cases, the discrepancies were between 2 and 357 days.

Auditors also randomly sampled 58 use and 66 vehicle and office inspection forms from July 1, 2004 to June 30, 2006, and determined that the Commission’s inspections database did not contain all completed inspections. Specifically, auditors identified two use inspection forms and one office inspection form that had not been entered into the database.

- **Complaint database had inadequate controls**—Information in the complaint database that predates mid-2004 is not sufficiently reliable due to inadequate controls, such as giving multiple people, including temporary employees, access to various database fields and not cross-checking the data entered into the database against case files. In mid-2004, the number of

<sup>1</sup> Some of these 15 case files may have been purged, as allowed by statute, but auditors cannot confirm how many had been purged.

employees with data entry responsibilities was limited to three people, and one employee was assigned to cross-check data entered into the database. However, inadequate database system controls have not allowed employees to consistently enter data, such as licensed company names and allegations, while some information is missing from the database, such as when the complaint investigation was completed. A commission IT staff member agreed that data in the complaint database needs to be validated for accuracy and completeness.

- **Needed information not readily accessible**—In addition to the database reliability concerns, commission management and staff cannot easily access the information they need to perform their work and provide necessary oversight. Specifically, while the databases provide the functionality to create and provide several reports with useful information to management and staff, for the most part, these reports have not been created. According to the Commission’s IT Director, the only reports that have been created relate to information that must be reported quarterly to the EPA and to support performance measure information, such as the number of license and license renewal applications. According to the Commission’s Executive Director, the performance measure information is reported to the Governor’s Regulatory Review Council (GRRRC). Additional management reports have not been created because of the Commission’s limited IT resources and the commitment of these resources to higher-priority projects, such as creating the necessary technology for Web-based license renewals.

According to some commission staff, demand exists for other standard management reports to provide basic information. For example, a commission licensing staff member demonstrated for auditors that the licensing database could not be used by this staff member to run a report listing all of the inactive or expired licenses, and staff must instead contact the IT Director to obtain this information. According to a commission official, the capability to run this type of report exists, but was not working and has since been corrected during the audit. Auditors also found that commission licensing staff had to rely on IT staff to obtain reports regarding the total number of license applications the Commission received in the different license categories. According to a commission official, while this information could be obtained from other system applications, the licensing database will be updated with this capability.

- **Commission databases insufficiently documented**—Auditors also found that documentation of the Commission’s IT databases, which explains how the databases function and can be used, is insufficient. Documentation and manuals need to be available to users and IT department staff to provide the information necessary for successful system operation and use. However, the Commission has not created any documentation regarding the structure and

Commission management and staff cannot easily access necessary information.

use of the databases, nor has it created user manuals to serve as a reference for staff who use the databases. According to the IT Director, creating this documentation has not been a high priority because of the lack of time and staff. Additionally, this lack of sufficient documentation could place the Commission in a difficult position if the IT Director were to ever leave the Commission, since he possesses most of the database knowledge.

**Data limitations affect commission management oversight and public access to information**—The limitations of the Commission's databases impede management's ability to oversee the agency. For example, when inquiry closure dates are not entered into the database after a case is closed, management's ability to track and report on the timeliness of case resolution is impeded. Additionally, the lack of management reports and system documentation affects management's ability to obtain, analyze, manipulate, and review basic information and data that results from the Commission's primary functions and operations.

Additionally, the presence of some unreliable information in the Commission's databases affects its ability to provide timely information to the public. When the Commission receives a request for complaint information from the public, instead of relying on the complaint database to provide this information, because of questions regarding the reliability of this information, a commission staff member must gather and review all pertinent complaint information from complaint files to fulfill these requests. As a result, a public information request may require several days to fulfill. For example, an auditor called the Commission to ask about a prospective pest control provider to handle a tick infestation problem and was told that the requested information would likely not be provided for 2 weeks. Since the auditor could not wait 2 weeks to take care of the tick infestation problem, she had to choose a company without information from the Commission. When another auditor called requesting complaint information, the auditor was likewise informed that the request would take 5 to 10 days to fulfill.

It takes the Commission several days to provide complaint history information in response to public requests.

## Commission should further improve information management

While the Commission has made some efforts to improve its information management practices, additional steps are needed. The Commission is taking some steps to improve its information management, including seeking legislative authorization for funding to bolster its IT staff and identifying the information management needs of its staff. Additionally, the Commission should develop and implement policies and procedures to guide data entry and verification practices, and begin creating needed management reports.

## Commission taking steps to improve information management—

In 2005, the Commission initiated efforts to improve its information management. The first of these efforts involved seeking additional IT staff. According to the IT Director, until the Commission hired a second IT person in 2005, he was the only IT person on staff for 15 years. In 2006, the Commission recognized the need for a third IT staff person and initiated the process of seeking funding authority from the Legislature. According to the fiscal year 2008 *State of Arizona Appropriations Report*, the Commission received authorization to hire an additional IT staff person to provide customer service and maintain IT systems for fiscal year 2008. The Commission also received authorization to spend an additional \$10,000 for a consultant to create and update documentation for the existing databases. According to a commission official, the Commission has initiated efforts to obtain these additional IT resources, and once these resources are obtained, the Commission should ensure that these documentation projects are completed in a timely manner.

The Commission has also initiated a process to solicit input from management and staff regarding their information needs. In September 2006, the IT Director met with various management users to begin discussing their information needs. However, IT staff resources would be needed to design and program the necessary reports to provide the information management and staff requested and according to the IT Director, development of a system called e-TARF, which will allow for the electronic filing of TARFs, has been designated as his highest priority. TARF filings represent a major source of fee revenue for the Commission, and the e-TARF system is scheduled for implementation in October 2007.<sup>1</sup>

IT staff are also working on integrating the Commission's various databases, which would enhance the Commission's data management and analysis capabilities. The Commission's Executive Director stated that the database integration project, which began in October 2001, needs to be implemented before the Commission can create some useful management reports. This is because the integration project will link the information housed separately in each of these databases. For example, once the databases are integrated, the Commission should be able to generate a report showing a licensee's complaint and inspection history, including any violations that resulted. This type of information should help commission management allocate its inspection resources by determining which licensees warrant additional inspections based on the number and type of complaints and/or violations a licensee has received.

While these projects are important, the Commission should also plan to develop needed management reporting capabilities that do not require database integration. Specifically, it should monitor the progress of these two ongoing projects and determine when resources would become available to begin

Commission management should monitor resource availability to develop its IT reporting capabilities.

<sup>1</sup> TARFs must be filed whenever a pest control action regarding termites, such as a pre-treatment of new construction, occurs. TARFs require an \$8 filing fee. According to a commission official, the Commission estimates that 79 percent of its 2007 revenues will come from TARF filing fees.

developing management reporting capabilities. The Commission should then develop plans for creating needed reports, and identify and allocate the necessary resources for doing so.

**Commission actions needed to ensure database accuracy**—The Commission should also ensure the accuracy of the information in its databases. To do so, it should develop and implement policies and procedures for data handling, including data entry, and for testing the data that currently resides in the databases. This would involve comparing database information to corresponding information contained in case files and correcting any inaccurate data. The Commission should concentrate on validating information contained in the inquiry and complaint databases, which auditors' analysis determined contain some unreliable information or information for which input controls were lax.

## Database improvements will improve public assistance

The Commission is making several improvements to information management that will allow for better public access to information. For example, the Commission is working to integrate the complaint database into the same database that will contain licensing, inspection, TARF, and other pertinent data. According to the IT Director, one benefit of this improvement will be that the complaint information could be pulled from the database to the Commission's Web site. This would allow members of the public to obtain information regarding the background of a prospective pest control company and make a quick, informed decision whether or not to hire the company. Once the Commission has completely integrated the complaint database with 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 through the Internet.

## Recommendations:

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





# SUNSET FACTORS

In accordance with A.R.S. §41-2954, the Legislature should consider the following 12 factors in determining whether the Arizona Structural Pest Control Commission (Commission) should be continued or terminated:

1. **The objective and purpose in establishing the Commission.**

The Commission was created in 1988 to protect the public from chemical harm and harm resulting from inadequate or improper structural pest control. Its predecessor was the Arizona Structural Pest Control Board, which was established in 1965.

The Commission regulates the pest control industry by issuing licenses to qualified applicants, setting standards of pest control treatment, inspecting pest control companies, investigating inquiries and complaints, and disciplining licensees. Under the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the Commission has the primary responsibility for enforcing pesticide regulation in the State.

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

While the Commission performs many of its responsibilities effectively and efficiently, it needs to improve some of its functions. The Commission has met its objective and purposes in the following ways:

- **Timely processing of licenses**—The Commission processed most of the initial license applications auditors reviewed within the three required time frames for licenses it issues. These time frames consist of an initial administrative review to verify the application is complete (7 days), the Commission’s substantive review and disposition (60 days), and the overall time frame for both reviews (67 days).

As illustrated in Table 3, auditors reviewed a random sample of ten license applications received between January 1, 2004 and June 30, 2006, to determine the Commission's compliance with the overall 67-day time frame and found that the Commission processed all ten of these applications within 67 days<sup>1</sup>. For seven of the ten licensing applications reviewed, the Commission met the initial 7 days allotted for the administrative review. For the three cases commission staff did not review within the 7-day time frame, commission staff took between 21 and 45 days to review the cases. However, these three cases were processed well under the time allotted for the substantive and overall reviews.

**Table 3:** Number of License Applications Processed Within Time Frames From January 2004 through June 2006

	Number of Applications in Sample	Conducted Administrative Review within 7 Days	Conducted Substantive Review within 60 Days	Conducted Overall Review within 67 Days
Applicator	4	4	N/A <sup>1</sup>	4
Qualifying party	3	1	3	3
Business	<u>3</u>	<u>2</u>	<u>3</u>	<u>3</u>
Total	<u>10</u>	<u>7</u>	<u>6</u>	<u>10</u>

<sup>1</sup> Commission staff reviewed and approved these four applicator license applications. These applications were not forwarded to the Commission for substantive review.

Source: Auditor General staff analysis of ten applications the Commission received between January 1, 2004 and June 30, 2006.

Despite meeting its time frames for processing license applications, the Commission should ensure that it reviews and approves all license applications. Specifically, the Commission did not review and approve the four applicator license applications. Instead, commission staff approved these license applications. According to A.R.S. §32-2304(A)(19), the Commission is required to license applicators, qualifying parties, and businesses. Additionally, A.R.S. §32-2304(G)(1) stipulates that the Commission cannot delegate this responsibility to staff. During its July 2007 meeting, the Commission ratified all applicator licenses issued since September 17, 2003, and will begin to review all applicator license applications on a monthly basis.

- **Consistent discipline applied**—For the complaints reviewed by auditors, the Commission appears to consistently and appropriately apply disciplinary penalties. Auditors' review of the Commission's enforcement action matrix, which is used to ensure the Commission assigns consistent

<sup>1</sup> In administrative rule changes that became effective in April 2007, the Commission revised its time frames for processing and approving licenses, including changing its overall time frame from 67 days to 130 days. This change occurred after auditors analyzed the Commission's compliance with the 67-day requirement.

discipline and, according to commission staff, is based upon a similar EPA document, suggests that this tool is a sound method for assigning penalties. For example, the matrix assigns a point value to the various aggravating and mitigating factors involved in the violation, such as whether the violation resulted in human or environmental harm and/or whether the licensee makes amends with the consumer by providing additional services. The total factor value corresponds to a numerical scale that offers a range of possible penalties. Auditors reviewed a random sample of five complaints involving five different types of violations that the Commission adjudicated and closed between January 1, 2004 and June 30, 2006, and determined that the Commission appropriately used its enforcement action matrix to determine discipline for all five complaints. Further, for each complaint, notes were entered in the complaint file to explain additional information that was taken into account when using the matrix.

Additionally, for the five complaints reviewed, auditors determined that the Commission ensured that the licensees met the requirements and stipulations of the disciplinary actions and retained evidence that the disciplinary conditions had been met. For example, documentation included copies of penalty payment checks, certificates indicating that classes had been taken, and an e-mail from a commission inspector who had witnessed repairs being done.

- **Established process for tracking TARFs**—The Commission has established procedures for filing Termite Action Registration Forms (TARFs). Within 30 days of each termite treatment by a pest control company, statute requires the company to submit a TARF and an \$8 filing fee to the Commission. These forms provide information to the Commission and public regarding termite treatment work, such as the name of the company and applicator, as well as the date and type of pesticide treatment made.

According to commission information technology (IT) staff, 80 percent of licensed pest control companies submit their TARFs using the Commission's CompuTAR software, which is provided free of charge. This software helps commission staff track TARFs by assigning each one a unique number and printing a statement for the company that records the TARF report number, property address, date of the termite action, and whether the TARF was submitted on time. Each company must submit a copy of this statement to the Commission with its disk and fees. According to commission staff, paper forms are entered into the system by a data entry vendor, who reviews the forms and returns any that are incomplete. This information can be used to track and report to homeowners the history of termite treatments performed on their homes.

The audit also identified some areas in which the Commission can improve its effectiveness and efficiency. Specifically:

- **Improve inquiry and complaint processing**—The Commission appropriately investigated most of the inquiry and complaint cases auditors reviewed; however, the Commission should take additional steps to ensure the timely and appropriate processing of all inquiries and complaints. Auditors reviewed a random sample of 44 inquiries and complaints and determined that commission staff had adequately investigated 42 of them. However, although the Commission has established time frames for the processing of inquiries and complaints, it does not consistently meet them. Specifically, more than half of the cases auditors reviewed for timeliness were not processed within the Commission’s established time frames. Establishing time frames for each investigative step and improved monitoring of the investigation process should help ensure that inquiries and complaints are processed in a timely manner. Additionally, the Commission can improve its handling of substantiated violations by establishing policies regarding which substantiated violations it should address versus those that staff can remedy, as well as ensuring its staff document the action taken and retain a record of the inquiry. (See Finding 1, pages 13 through 21.)
- **Increased monitoring of inspections needed**—To ensure inspections of licensees are appropriately prioritized and conducted, the Commission needs to better monitor its inspections. Although the Commission has an established plan for prioritizing inspections in which each licensed business should receive 3 types of inspections every 2 years (use, vehicle, and office inspections), many licensees have not received some or all of these inspections. For example, according to the Commission’s licensing database, of the 812 companies eligible for inspections between July 1, 2004 and June 30, 2006, 138 licensed businesses did not receive any inspection at all. Improved monitoring of inspections would help ensure that the Commission inspects all licensees. Additionally, the Commission should implement and monitor the use of its revised inspection manual and forms to ensure complete and consistent inspections. (See Finding 2, pages 23 through 31.)
- **Commission staff need improved access to information**—The Commission faces several impediments to effectively using information to manage the agency. First, auditors found that some data was unreliable due to weak data entry controls, and some data was inaccurate or incomplete. Second, commission management must rely heavily on a small IT staff to handle IT projects, including providing access to basic management information. Finally, the small IT staff has not sufficiently documented its databases. Documentation and manuals need to be available to users and IT staff to provide the information necessary for successful system operation and use.

The Commission's IT staff has begun addressing some of these impediments by gathering feedback from agency management about what information is needed to more effectively manage the agency. Additionally, the Commission has received authorization to hire additional IT staff resources to assist with maintaining IT systems and documenting the databases. However, the Commission should also ensure that it assesses the reliability of the data in its databases and corrects unreliable data. (See Finding 3, pages 33 through 39.)

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

The Commission operates in the public interest in many of its activities.

- **First**, the Commission's licensing process helps to ensure that licensed pest control workers possess the knowledge and skills required to perform pest control work. For example, the Commission ensures that qualified parties (those responsible to supervise pest control work) document a minimum of 3,000 verifiable hours of previous pest control work (or 2,000 hours and 12 college semester hours in etymology or pest control work) to become licensed. Additionally, according to commission staff, the Commission has established processes to ensure that licensees who apply or supervise pesticide applications take required continuing education classes before a license can be renewed. The Commission also approves continuing education programs.
- **Second**, the Commission provides information to the public through its Web site in various ways. Its Web site contains information regarding licensing and continuing education requirements, various forms, and licensing applications. Additionally, the Web site contains commission items such as scheduled public meetings, as well as agendas and minutes from previous meetings. Consumers can also obtain information regarding the licenses that pest control companies and licensees currently hold, and information on a variety of pest-related topics, such as asian flu, hanta virus, mosquitoes, roof rats, and termites. In March 2007, the Commission launched a new Web site to further improve user access to this information. The Commission has also added a feature to its Web site that allows licensees to update routine information and obtain licenses and renewal forms online. Finally, licensees also have the option of renewing their licenses through the Commission's Web site.
- **Third**, the Commission provides licensees with assistance in meeting their continuing education requirements. The Commission provides its own classes free of charge that help fulfill the requirements of licensure. According to commission staff, a major goal of these classes is to provide accurate information about laws, rules, and procedures that affect

licensees. According to the Commission, it provided eight courses throughout the State in the 2005-2006 renewal year. The Commission also provides information on its Web site regarding approved continuing education courses provided by outside entities.

While the agency has acted in the public interest in some ways, auditors identified the following area in which the agency could better serve the public interest:

- **Make accurate complaint history information more readily available—**  
The Commission does not provide information regarding the complaint history of licensees to members of the public unless they are willing to wait for several days. After the Commission ensures the complaint database information's accuracy and integrates the complaint database with other commission databases, it should upgrade its Web site to allow members of the public to access its improved complaint information via the Internet. (See Finding 3, pages 33 through 39.)

**4. The extent to which rules adopted by the Commission are consistent with the legislative mandate.**

Based on auditors' review of the Commission's statutes and administrative rules, auditors determined that the Commission has two statutes for which rules are mandatory: A.R.S. §32-2304(A)(1), which requires rules for the administration of its laws, including health and safety provisions, provisions for the use and storage of pesticides, and for devices used in pest control, and A.R.S. §41-1073(A), which requires rules to establish time frames to issue licenses. Auditors found that as of January 2007, administrative rule R4-29-108 and various other rules have been established for these statutes.

The Commission also has the authority and option to promulgate rules for four statutes, A.R.S. §§32-2314(B)(10), 32-2312(B)(10), 32-2321(D), and 41-1009(A)(5) and (M). According to a commission official, the Commission has not deemed it necessary to establish rules under these statutes.

**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.**

According to a commission official, the Commission submitted a rule package to the Governor's Regulatory Review Council (GRRC) for review and approval in November 2006. These rules were approved by GRRC and became effective in April 2007. In revising its rules, the Commission took several steps to inform and involve the public and stakeholders in the process. For example, according to a

commission official, the Commission's Web site reflected the status of the proposed rule changes, including drafts of language and stakeholder meeting dates, as they occurred. The Commission's monthly meeting minutes also reflected the status and discussion of the rule changes. Finally, the Commission filed notice in the Arizona Administrative Register of its proposed rule changes and the public's opportunity to provide input on these changes. According to a commission official, the Commission maintains an e-mail list of people who have asked to be sent periodic e-mails about law and rule changes, which includes the e-mail addresses of industry members from businesses of varied size and location. This list of about 200 licensees has been used to send informative e-mails about the proposed rules since 2005.

According to a commission official, the Commission has also taken steps to inform industry members of important changes in the allowable use of pesticides. For example, according to this official, through its Web site and mailings, the Commission provided information about a stop-use order from the EPA regarding products containing chlorpyrifos. This commission official also indicated that commission staff present at educational programs sponsored by various associations, including landscape, golf course, and homeowners' associations; the tree council; and approved continuing education providers.

The Commission has also complied with the State's open meeting laws. The Commission has posted public meeting notices at least 24 hours in advance at the required location, made agendas available to the public, maintained meeting minutes, and filed the required statement of where meeting notices will be posted with the Secretary of State.

**6. The extent to which the Commission has been able to investigate and resolve complaints that are within its jurisdiction.**

The Commission has sufficient authority to investigate and resolve complaints within its jurisdiction. The Commission uses inspectors to investigate complaints such as pesticide misuse, inaccurate wood-destroying insect inspections and reports, failure to file TARFs, and unlicensed activity. Further, the Commission can issue corrective work orders requiring licensees to correct deficiencies. However, the audit found that the Commission has not investigated and resolved all of its inquiries and complaints in a timely manner. Specifically, the audit found that only 15 of 44 inquiries auditors reviewed were completed within the prescribed 60-day time frame. Additionally, only 11 of 19 complaints reviewed were completed within the 180-day time frame the Commission prescribes to investigate and adjudicate complaints. (See Finding 1, pages 13 through 21).



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 Commission has full authority to enforce its enabling statutes. A.R.S. §§32-2304, 32-2321, 32-2327, and 32-2329 authorize the Commission to impose discipline against various unlawful acts. This authority includes imposing either a cease-and-desist order, civil penalty, or both on unlicensed pest control activity, imposing civil penalties, probationary terms, or suspension and revocation against licensees, seeking injunctive relief, and summarily suspending licenses. Additionally, A.R.S. §41-192 authorizes the Attorney General to act as legal advisor and render the legal services the Commission requires.

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

Three significant measures were passed in the 2006 legislative session:

- **Laws 2006, Chapter 311**—Adds childcare facilities as locations to be notified prior to the application of pesticides. In addition, it requires the Director of the Department of Health Services to adopt a policy to provide parents, guardians, children, and personnel with 48 hours' notice before applying pesticides, and defines what the policy should include.
- **Laws 2006, Chapter 88**—Allows a utility, such as a telephone company and its employees, to provide unlicensed pest control services under some circumstances. Unlicensed services can be provided if they are immediately needed for an employee's health and safety in order for the employee to continue performing work tasks, and if a qualifying party ensures that employees who conduct the pest control services are properly trained, supervised, and equipped.
- **Laws 2006, Chapter 263**—Provides a license exemption for weed control under limited circumstances. Under this law, unlicensed pest control services can be provided by those who perform lawn, garden, shrub, or tree maintenance as their primary service if they apply a general use herbicide as required by label directions in amounts no more than 8 gallons or 25 pounds, and maintain treatment records.

9. **The extent to which changes are necessary in the laws of the Commission to adequately comply with the factors in the sunset review law.**

This audit did not identify any needed changes to commission statutes.

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

Terminating the Commission could significantly harm the public as the Commission is responsible for licensing pest control applicators and companies, investigating and adjudicating inquiries and complaints, and conducting inspections of licensees. Under the provisions of FIFRA, the Commission has the primary responsibility for enforcing pesticide regulation in the State. If the Commission were terminated, FIFRA provisions would still remain, and if authority for enforcing these provisions were not transferred to another state agency, enforcement authority would revert to the federal government. Additionally, without these regulatory activities, the public may not be protected from health hazards caused by misapplication of pesticides, or financial loss due to infestation as a result of insufficiently applied pesticides by pest control companies and applicators. For example, several of the complaints auditors reviewed involved critical safety considerations, such as misuse of pesticides or improper pesticide storage. Another complaint dealt with the inadequate termite pre-treatment of a home building site. Additionally, the Commission compiles and maintains records of termite treatments that are available to homeowners and prospective homebuyers.

**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 audit found that the current level of regulation exercised by the Commission is generally appropriate.

While the Commission has some enforcement authority over the unlicensed practice of pest control, it cannot take disciplinary action against an unlicensed pest control company for misusing pesticides. However, to achieve enforcement actions against an unlicensed pest control company for misuse committed in the course of unlicensed pest control activity, the Commission would need to refer the case to the EPA. While the Commission has considered proposing a statutory change requesting such authority, it decided not to seek any statutory changes during the 2006 legislative session after hearing opposition from industry members and determining that concerns regarding language problems could be addressed without significant statutory adjustments. The statutory changes that the Commission decided not to seek included a change that would give it disciplinary authority over misuse committed by an unlicensed pest control company.

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 Commission uses private contractors for various functions. According to the Commission, it uses contractors to administer all license exams, assist in creating and editing exams, review exam study material, and help with promulgating rules. Additionally, the Commission reports using a contractor to provide lobbying functions during the 2005 and 2006 legislative sessions. Finally, the Commission states that it contracts for some data entry services and has intergovernmental agreements with the Office of Administrative Hearings to conduct formal hearings and the Department of Administration for accounting data entry functions.

The Commission has also received authorization to spend \$10,000 in fiscal year 2008 for a private contractor to help create and update sufficient documentation for commission databases.

The audit did not identify any additional opportunities to contract for services.

# AGENCY RESPONSE





**Janet Napolitano**  
Governor

STATE OF ARIZONA  
**Structural Pest Control Commission**

**Lisa Gervase**  
Executive Director

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August 2, 2007

Ms. Debbie Davenport  
Auditor General  
State of Arizona Office of the Auditor General  
2910 N. 44<sup>th</sup> 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

Enclosure

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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](http://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.

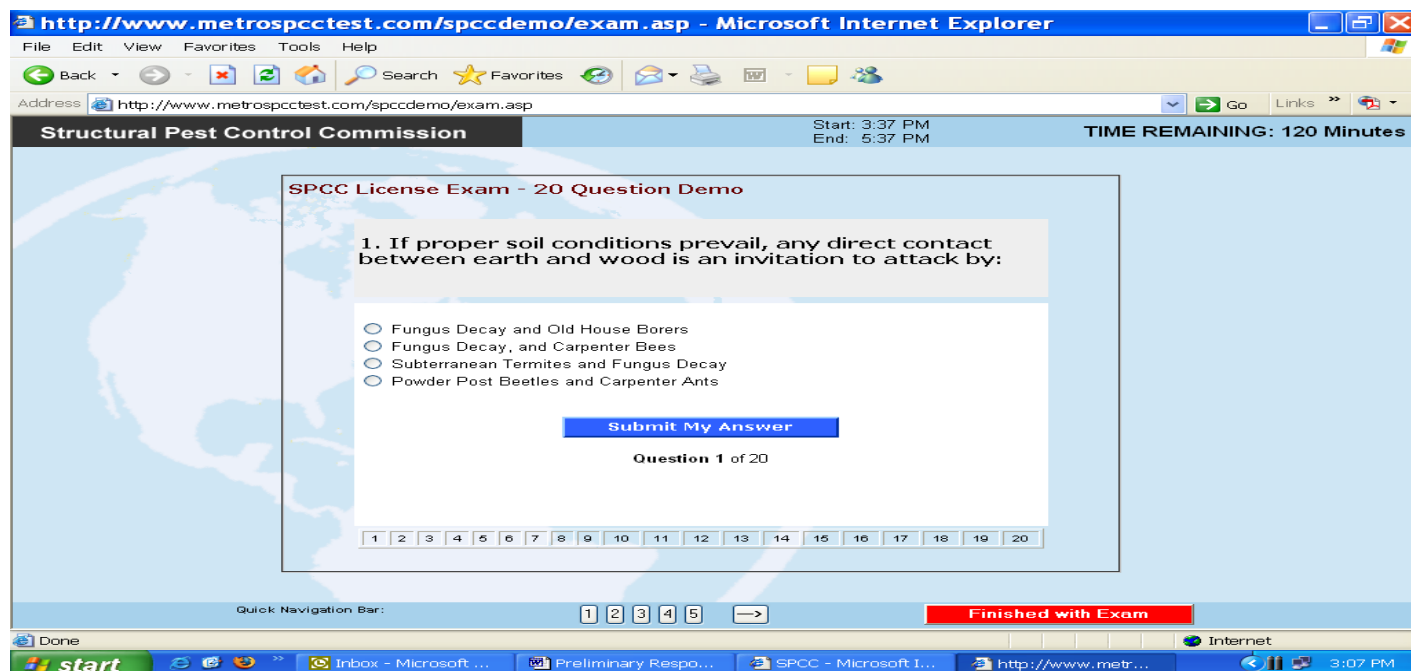
**4. MyAccount: An on-line system to update contact information, print licenses and renewal forms:** In June 2007, the SPCC added this feature to its web site to enable licensees to update routine information and obtain renewal forms and licenses, in a manner that is much more efficient for licensees 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](mailto: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.metrospcc.com/spccdemo](http://www.metrospcc.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](mailto: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 60<sup>th</sup> 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 60<sup>th</sup> 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 120<sup>th</sup> 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 180<sup>th</sup> 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:

<b>Business</b>	<b>Number of Use Inspections</b>
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.<sup>1</sup> 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.

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<sup>1</sup> *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.

## Performance Audit Division reports issued within the last 24 months

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<b>05-06</b>	Department of Revenue—Audit Division	<b>06-04</b>	Arizona Department of Education—Accountability Programs
<b>05-07</b>	Department of Economic Security—Division of Developmental Disabilities	<b>06-05</b>	Arizona Department of Transportation—Aspects of Construction Management
<b>05-08</b>	Department of Economic Security—Sunset Factors	<b>06-06</b>	Arizona Department of Education—Administration and Allocation of Funds
<b>05-09</b>	Arizona State Retirement System	<b>06-07</b>	Arizona Department of Education—Information Management
<b>05-10</b>	Foster Care Review Board	<b>06-08</b>	Arizona Supreme Court, Administrative Office of the Courts—Information Technology and FARE Program
<b>05-11</b>	Department of Administration—Information Services Division and Telecommunications Program Office	<b>06-09</b>	Department of Health Services—Behavioral Health Services for Adults with Serious Mental Illness in Maricopa County
<b>05-12</b>	Department of Administration—Human Resources Division	<b>07-01</b>	Arizona Board of Fingerprinting
<b>05-13</b>	Department of Administration—Sunset Factors	<b>07-02</b>	Arizona Department of Racing and Arizona Racing Commission
<b>05-14</b>	Department of Revenue—Collections Division	<b>07-03</b>	Arizona Department of Transportation—Highway Maintenance
<b>05-15</b>	Department of Revenue—Business Reengineering/Integrated Tax System	<b>07-04</b>	Arizona Department of Transportation—Sunset Factors
<b>05-16</b>	Department of Revenue Sunset Factors		
<b>06-01</b>	Governor’s Regulatory Review Council		
<b>06-02</b>	Arizona Health Care Cost Containment System—Healthcare Group Program		
<b>06-03</b>	Pinal County Transportation Excise Tax		

## Future Performance Audit Division reports

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Arizona School Facilities Board

Board of Homeopathic Medical Examiners