

NOTICE OF OPEN MEETING SUBMISSION

DATE OF SUBMISSION: July 15, 2024
NAME OF AGENCY: Texas Department of Agriculture
BOARD: N/A
COMMITTEE: Structural Pest Control Advisory Committee
DATE OF MEETING: July 25, 2024
TIME OF MEETING: 9:00 AM
STREET LOCATION: Stephen F. Austin Building
Room 1003A
1700 North Congress Avenue
CITY LOCATION: Austin, Texas 78701

STRUCTURAL PEST CONTROL ADVISORY COMMITTEE

MINUTES

Meeting Date: July 25, 2024 Place: Stephen F. Austin Building

In-Person/Teleconference/Microsoft Teams Meeting

MEETING ATTENDANCE:

Advisory Committee Members

Roger Borgelt

Dr. Nancy Crider - unable to attend.

Elyes Benantar - unable to attend.

Randy McCarty - unable to attend.

Dr. Bob Davis

Brien Binford

Dr. Robert Puckett

Mike Brooks - unable to attend.

Clint Lehew

Tommy Kezar

<u>Agency Staff</u>	<u>Affiliation</u>	<u>Program</u>
Allison Cuellar	TDA	ACP
Michael Kelly	TDA	ACP
Robert Thompson	TDA	ACP
Marshall Webb	TDA	Communications
Weston Beckham	TDA	Communications
David Castillo	TDA	General Counsel
Chris Gee	TDA	General Counsel
Jenny Barker	TDA	Pesticide Lab
Perry Foskey	TDA	Pesticide Lab
Serena Kim	TDA	Pesticide Lab

<u>Interested Parties</u>	<u>Affiliation</u>
N/A	N/A

I. Call to Order

- a. The meeting is called to order by The Chairman Mr. Roger Borgelt at 09:15 AM on July 25th, 2024.
- b. The committee has a Quorum.

II. Review and Approval of Minutes for the April 18th, 2024, meeting.

- a. Dr. Bob Davis makes a motion to approve the Minutes.
- b. Thomas Kezar seconded the motion, were in favor.

III. TDA Update

- a. How to YouTube videos update. – Marshall Webb, Assistant Director for Communications

1. Mr. Webb introduced Weston Beckham, Digital Media Specialist and stated Mr. Beckham will start working on the Youtube Videos.
 2. Program will get with video department to review what scripts may need review/updating.
 3. Thomas Kezar suggests the first video be on the Verifiable Training Record, Allison Cuellar agreed.
- b. Review of Inspection and Enforcement Data for 3rd Quarter of FY24 – Mike Kelly and Allison Cuellar
1. The 3rd Quarter of FY 2024 spans from March 2024 through May 2024. The FY24 commercial inspection goal is 1065 and 973 commercial business inspections have been completed, 91.36% of the goal. Noncommercial business inspections have a goal of 460 and 331 have been completed, 71.96% of the goal. There is a goal of 225 school inspections and 204 school inspections have been completed 90.67% of the goal. There is a goal of 190 Use Observations and 117 have been completed, 61.58% of the goal.
 - i. **Dr. Bob Davis-** Ask how the department feels about reaching all the goals by the fourth quarter?
 - ii. **Allison Cuellar-** I think we will reach the goal. Allison provided an overview of how the department keeps the field notified of goals and what is needed to achieve the goal.
 2. Enforcement data for the 3rd Quarter of FY 2024 reviewed. Mike Kelly

There was a total of 49 notices of violations (NOVs). The highest amount of NOVs were for “Other” with 19 NOVs. breakdown of “other” was shown 1- incomplete termite disclosure document/termite disclosure document violations, 2-Making a pesticide application inconsistent with pesticide use in schools, 1-any violation of preconstruction treatment rules including failure to notify 1- Use inconsistent with labeling, 11- Failure to meet minimum continuing education requirements, 1-Insurance lapse/ no insurance, 1- Failure to maintain Technician training records, 1-Operating without a license, 1- Failure to provide info/records.

There was a total of 43 warnings 1-Failure to comply with Training or supervision requirements, 6- Failure to comply with IPM Requirements, 8- Incomplete pesticide use records, 8-operating without a business license, 1-improper deviation from treatment disclosure, 2 working out of category, 17- “Other”. A breakdown of “other” was provided. Total actions for the 3rd Quarter FY 2024 were 92, and the total penalties assessed was \$61,210, total collected \$25,210.

 - i. **Discussion**
 - ii. **Chair Borgelt** – Pleased to see insurance is less of an issue. Is that a fair assessment?

- iii. **Allisson Cuellar**- Yes, the department has been proactive during inspection when it comes to insurance.
- iv. **Dr Bo Davis**- Are complaint cases up currently and is there a report?
- v. **Mike Kelly**- Complaints are reported to the legislative budget board annually, at the next meeting the number of complaint cases for FY24 can be provided.
- vi. **No further questions**

c. Exam updates- (Exam question pass fail rate) Allison & Mike

1. There were seven commonly missed questions; three laws and regulations questions, two entomological questions, and two questions regarding equipment/nozzles. These questions were answered correctly less than 40% of the time. The questions were reviewed and the department determined these questions were good questions with no issues.
 - i. **Allison**- We considered adjusting the answers to make it a more obvious answer but are not sure that is the direction the committee would like to go.
 - ii. **Mike Kelly** – Explained that program will continue to review exams, particularly when new rules are adopted while implementing TDA’s new EPA approved Certification and Training Plan. The goal would be to develop a bank of questions for each exam that will be randomized.
 - iii. **Dr. Bob Davis** – Suggested we do not make the tests simpler.
 - iv. **Roger Borgelt** – Clarified that what Mike is saying is there will be more questions in the bank.

2. The department also investigated concerns that the images on the exams were not of good quality. The department audited a test site and determined the images were acceptable.
 - i. **Allison**- plans to audit a few more testing facilities.
 - ii. **Chair Borgelt**- the department satisfied with the questions?
 - iii. **Mike Kelly**- the department still wants more questions in the question bank, when more questions are in the bank, we will investigate replacing these seven questions.
 - iv. **Dr Bob Davis**- if the questions are good, our goal should not be to dumb down the test.
 - v. **Dr Bob Davis**- how did what you learned auditing the testing facility help TDA customer service?
 - vi. **Allison**- It allows us a better understanding of what the test taker will see before taking exams to be sure they are taking the

proper exam. Also, with the image we now can assist customers by stating the image is of decent quality.

vii. **No further questions**

d. Pesticides Registration and Endangered Species Act- Allison Cuellar.

1. Allison reviews slide on pesticides improvement act (PRIA)
2. Allison Reviews slide on Endangered Species Act (ESA) changes coming.
 - i. **Allison** -Applicators will be required to keep proof that Bulletins Live Two (BLT) was checked for Pesticide Use Limitation Areas (PULAS).
 - ii. **Dr Bob Davis**- How Would they do that?
 - iii. **Allison**- They must have it stored with their records and available to review and it needs to show that it was checked in the 6 months prior to application.
 - iv. **The committee discusses the difficulties BLT and PULA requirements present to the state regulators when it comes to enforcement.**

e. Federal updates -Mike Kelly and Allison Cuellar

1. Mike Kelly presents section 13 (Implementation Timeframe) of the certification and training plan for the state of Texas approved by EPA.
 - i. **Discussion**
 - ii. **Chair Borgelt**-does the department anticipate any major changes on the structural side for certification?
 - iii. **Mike Kelly**- A change of note is you will have to be 18 years or older to apply restricted use products. Also start and stop times of applications on use records.
 - iv. **Dr Bob Davis**- Is that start and stop of service or when you turn off the truck?
 - v. **Mike Kelly**- It is when you arrive and depart the service.
 - vi. **Mike Kelly**- Most changes are on the Ag side.
2. EPA Rodenticide update - Allison Cuellar
 - i. Allison reviews proposed interim Decision (PID) on rodenticides.
 - ii. **Allison**- EPA announced they will revise this PID expected 2025, the goal is to avoid secondary poisoning.
 - iii. **Discussion**
 - iv. **Thomas Kezar**- What's ASPCRO doing with House Resolution 7018?
 - v. **Allison**- we do not expect that bill to go anywhere so not much effort is being put into that bill.

- vi. **Committee discussion.**
- vii. **No questions.**

3. EPA region six inspector training- Mike Kelly

- i. Mike Kelly- shared the agenda for PIRT training conducted 6/11/2024-6/13/2024.
- ii. **No questions**

f. ASPCRO Update -Allison Cuellar

- 1. A slide show about ASPCRO was presented to the committee.
 - i. **Allison-** ASPCRO Annual meeting 8/20-8/23/2024.
 - ii. **No questions.**

IV. Discussion and Possible Action relating to the following:

a. Action on termite treatment in trees- Mike Kelly

The category definition for termite from rule was provided. (Termite and Wood Destroying Insect Control--The inspection or control of termites, beetles, or other wood destroying insects and wood preservation by means other than fumigation in buildings, including homes, warehouses, stores, docks, or any other structures. This category includes the treatment of termites in trees in and around structures) 7.124.

- i. **Dr. Bob Davis-** clarifies the question pertaining to arborists treating the trees for termites. Can they do it with their license or do they need a license in the termite category?
- ii. **Allison-** depends on what they are doing that application for.
- iii. **Thomas Kezar-** the board made this decision long ago that you must have Termite category and cannot treat with Lawn and Ornamental category.
- iv. **Dr. Bob Davis-** Does there have to be termites in the tree, or can you do a preventive?
- v. **Chair Borgelt-** Following the label is what is needed.
- vi. **Allison-** An Arborist must have a license in the termite category to do this work. Unless it is Ag production.
- vii. **Discussion on the topic.**
- viii. **Committee decides no action is needed.**

V. Topics to be placed on agenda for upcoming meeting(s)

- a. YouTube videos topics
- b. Number of complaint cases per year.
- c. Number of Types of Cases.
- d. Exams update.
- e. EPA changes or federal actions update

VI. Public Comment

- a. **No public comment**

VII. Confirmation of Next Meeting Date – October 3rd, 2024

- a. The meeting date was confirmed.

VIII. Adjourned

- a. Tommy Kezar made the motion to adjourn the meeting at 11:01am