

**STRUCTURAL PEST CONTROL ADVISORY COMMITTEE**

**MINUTES**

**Meeting Date: October 22, 2020**  
**Meeting No. 4**

**Place: Stephen F. Austin Building**  
**Skype Meeting**

**MEETING ATTENDANCE:**

**Advisory Committee Members**

Warren Remyey  
Jeffrey Sheets  
Brien Binford  
Roger Borgelt  
Clint Lehew  
Dr. Robert Puckett – unable to attend  
Dr. Ketki Patel  
Randy McCarty  
Nancy Zaiontz  
Robert Schoppe – unable to attend  
Dr. Nancy Crider – unable to attend

<b><u>Agency Staff</u></b>	<b><u>Affiliation</u></b>	<b><u>Program</u></b>
Michael Kelly	TDA	ACP
Allison Cuellar	TDA	ACP
Aaron Curiel	TDA	ACP
Leslie Smith	TDA	ACP
Phil Wright	TDA	ACP
David Castillo	TDA	GC
Morris Karam	TDA	GC
Chris Gee	TDA	GC

**Interested Parties**

	<b><u>Affiliation</u></b>
Todd Kercheval	TPCA
Kevin Lipscomb	Pest Inspection Network
Ryan Skrobarczyk	Texas Nursery & Landscape Association
Amy Graham	TNLA
Madeline Busby	Clean Scapes
Karen Rockoff	Tree Solutions
Wendy	Preservation Tree
Jimmy Richmond	Unknown
Rachelle Kemp	Unknown
979-820-0728	Unknown

**I. Call to order**

The meeting was called to order at 9:02 a.m. by Roger Borgelt, Chairman of Structural Pest Control Advisory Committee, he asked if there were any interested parties in attendance that would be making public comment.

Mike Kelly of the TDA took roll of attending committee members, TDA staff, and public attendees; and identified the following individuals wanting to make public comment:

Kevin Lipscomb with Pest Inspection Network, Todd Kercheval with Texas Pest Control Association and Ryan Skrobarczyk with Texas Nursery and Landscape Association.

**II. Review and approval of minutes of the July 23, 2020 meeting**

Roger Borgelt asked for a motion to approve the minutes from the July 23, 2020 meeting. Randy McCarty motioned to approve; Warren Remy seconded the motion.

**III. Discussion and Possible Action**

**a. Structural Pest Control Insurance Requirements- Mike Kelly**

Mike Kelly presented the TDA's legal department interpretation of Section 1951.312 of the Occupations Code regarding liability insurance requirements. Their interpretation was that since the Occupations Code only prescribes a minimum requirement, the agency would be allowed to raise the insurance minimum requirement by rule. Mike Kelly presented a research document of liability insurance requirement amounts used in other states.

The committee discussed the different insurance amounts required by other states. The committee concluded that the minimum insurance requirements should be raised since they have been the same since the early 1990's. It was suggested that perhaps \$500K is within reason and would be a good starting point and the members of the committee seemed to agree. Randy McCarty asked what the difference in premium would be if we raised the requirement. Nancy Zaiontz stated the premium difference would be minimal or the same, but we may want to check with other carriers; and said she writes her policies at minimum for \$1,000,000. Roger Borgelt suggested having a public hearing so that the industry can have an opportunity to express their opinions on this matter.

Roger Borgelt asked Nancy if she could look for indications of what the minimum premiums might be for insurance carriers and how they would change if the minimum liability insurance requirement were to be raised. Roger Borgelt suggested that having this information may be helpful in determining what a new

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minimum amount should be. Roger Borgelt asked for this topic to be placed on the next meeting's agenda.

**b. Electronic Posting Notification 48 Hours Prior to Indoor Treatments- Mike Kelly**

Mike Kelly asked the TDA legal department to review Section 1951.453 of the Occupations Code to determine if electronic postings could be allowed by rule. Their interpretation was that the language in the Code does not authorize electronic postings, and a statutory change would be required to authorize electronic postings.

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Roger Borgelt agreed that a statute change would be necessary so that electronic posting can be allowed and suggested that the committee could not move forward without a statute change.

**c. Separate Category for WDIR Inspection Only- Allison Cuellar**

Allison Cuellar shared a Power Point presentation demonstrating some of the things to consider if we create a separate category for a WDI inspection only. The presentation covered the changes and updates to rules that may be needed.

The committee discussed the information presented and Randy McCarty asked if this new license category would operate the same as a regular or existing license category. Allison responded that the only difference may be the content of the exams, the content of the training manual(s), and the content of the classroom training requirements. On the job training, supervision requirements, responsible certified applicator requirements, business license requirements etc. would remain the same. Warren Remmy stated the CEU for the category would need to be geared toward inspection. Randy McCarty stated there would need to be training on signs of previous treatment. Brien Binford agreed they would need to know signs of treatment and evidence of all the different types of wood destroying insects.

The committee members also discussed concerns about how this category would be split in the future and if those who currently hold a termite category would be grandfathered into the new WDI only category. Roger Borgelt suggested to pick an implementation date in the future to split the category into two. Those who have the termite category prior to the split would get both; going forward licensees would have to get the treatment category and the inspection category separately. Roger Borgelt asked if anyone would like to make a motion to proceed with this issue. Warren Remmy motioned to move forward; Brien Binford seconded the motion. Roger Borgelt asked for more information regarding splitting the two categories at some future date and to discuss what would be the next steps at the next meeting. Allison Cuellar stated we will need to meet with Texas A&M AgriLife Extension about it.

**d. Structural Lawn and Ornamental and Weed Categories vs Ag Pesticides Landscape Maintenance and Vegetation Management Categories- Mike Kelly**

Mike Kelly reviewed Section 1951.053 of the Occupation Code and discussed the overlap of the structural lawn and ornamental and weed categories with the agricultural 3A landscape maintenance category and 5 vegetation management category. Some committee members expressed concerns that the different requirements between structural and agricultural licenses are unfair as the requirements for an ag license are less stringent but the work being performed is the same. Roger Borgelt agreed that this presents a non-level playing field that the legislature created a long time ago. He agreed that it is a different standard for the same work under a different license but since this was created by the legislature it would require legislative involvement for this to be fixed.

**IV. TDA Update**

**a. Review of Inspection and Enforcement Data for the Fourth Quarter of FY 2020**

Allison Cuellar presented the fourth quarter numbers and informed the committee that the COVID 19 pandemic has prevented the agency from reaching some of its goals such as Non-commercial inspections and School District inspections.

Roger Borgelt asked why the enforcement numbers for Failure to Comply with Training or Supervision Requirements are so high. It was explained that this violation can be due to several reasons such as operating out of category, operating in a category in which an individual was not trained/fully trained, failure to meet the supervision requirements for an Apprentice or Technician, failure to have a Certified Applicator registered with the company that has a category in which an Apprentice or Technician was trained or in which they were operating, etc.

Warren Remmy had a question about the outcome of a particular case. TDA General Counsel, David Castillo stated if we can get the information regarding the case we can investigate and explain the reasoning for the outcome of the case.

**V. Discussion and Action – Topics to be placed on agenda for upcoming meetings**

Roger Borgelt suggested that the separate inspection only category and new insurance requirement topics be placed on the next meeting's agenda. Ketki Patel informed the committee that she may have an update to share next meeting regarding pesticide surveillance and would like to share information regarding safety training for licensed childcare facilities.

Possible Section 18 Special Registration Update.

## **VI. Public Comment**

Kevin Lipscomb with Pest Inspection Network shared his thoughts about the Texas Official WDIR section 11. He felt that the previous treatment section of the report is totally irrelevant and does not think it should be on the report. Stating if there is evidence of a previous treatment, we don't know if termiticide was used or if it was used properly. Mr. Lipscomb also feels it is a conflict of interest to find something in an inspection and subsequently getting the job to treat. He also requested if the requirement to have the company's business license number affixed to the service vehicle could be removed if the new separate inspection only license is authorized. The reason for this is that some home inspectors use motorcycles and there isn't much room for the license decal.

Todd Kercheval with the Texas Pest Control Association informed the committee that the industry has some concern about a WDI only license. He asked what problem is being solved or addressed by this new license. He also reminded the committee of the financial burden and state agencies lacking funds to explore the process of creating a new category and if this effort really warranted the problem being solved.

Ryan Skrobarczyk with the Texas Nursery and Landscape Association expressed his appreciation for the discussion regarding the structural and ag licenses that overlap and is glad to see the industry coming together to look at this issue.

## **VII. Confirmation of Next Meeting Date- January 21, 2021**

The next meeting will be moved to the virtual platform Microsoft Teams per Mike Kelly due to the ongoing COVID-19 pandemic. Randy McCarty asked that future meetings, even after COVID-19, be held as a hybrid meeting platform to allow people to attend virtually. It was explained that open meetings requirements would have to be reviewed before determining this possibility.

## **VII. Adjourn**

At 10:45 am Roger Borgelt moved to adjourn the meeting; Randy McCarty made the motion to adjourn.