MINUTES OF THE
SPECIAL MEETING OF THE
STRUCTURAL PEST CONTROL BOARD
APRIL 11 AND 12, 2002

The meeting was held on Thursday and Friday, April 11 and 12, 2002, at the Sheraton Pasadena Hotel, 303 E. Cordova Street, Pasadena, California, commencing at 1:15 PM with the following members constituting a quorum:

Ken Trongo, President
Karl Thurmond, Vice President
Jean Melton
Bill Morris
Michael Roth
Mustapha Sesay
Gregory Traum

Board staff present:

Kelli Okuma, Registrar
Susan Saylor, Assistant Registrar
Dennis Patzer, Enforcement
Barbara Howe, Records Management

Departmental staff present:

Donald Chang, Legal Counsel

Board Liaison Deputy Attorney General Robert Eisman was also in attendance.

II. REINSTATEMENT HEARINGS

The Board sat with Administrative Law Judge Richard J. Lopez and Deputy Attorney General Sharon Cohen to hear the Petitions for Reinstatement of George A. Davenport, Operator's License No. 7377, and Bryant Harris, Field Representative's License No. 20719. When both petitioners failed to appear by 2:00 PM, Deputy Attorney General Cohen requested defaults and Administrative Law Judge Lopez, with the concurrence of Deputy Attorney General Cohen, formally closed the Reinstatement Hearings. Petitioner Bryant Harris arrived soon after, having been delayed because of a closure on Hwy 110. The Board informed Mr. Harris that he could petition the board for reconsideration.

III. CLOSED SESSION

The Board adjourned to closed session to consider proposed disciplinary actions in accordance with subdivision (c)(3) of section 11126 of the Government Code.

The meeting recessed at 2:30 PM.

The meeting reconvened at 8:59 AM on Friday, April 12, 2002.

I. ROLL CALL / FLAG SALUTE

Ms. Saylor read the roll call. Mr. Trongo led the flag salute.

IV. PUBLIC HEARING TO AMEND SECTIONS 1948 AND 1950 OF TITLE 16 OF THE CALIFORNIA CODE OF REGULATIONS RELATING TO ESTABLISHING AN APPLICATOR LICENSE AND RENEWAL FEE, AND TO ESTABLISH SPECIFIC CONTINUING EDUCATION RENEWAL REQUIREMENTS FOR APPLICATORS

Mr. Chang announced for the record that the date was April 12, 2002, the time was 9:03 AM and the meeting was being held in Pasadena. He stated a quorum of the Board was present, a notice had been filed with the Office of Administrative Law and a copy sent to all interested parties.

Mr. Chang announced the hearing was being held to consider the amendment of Sections 1948 and 1950 as outlined in the public notice. The hearing would be open to take oral testimony and/or documentary evidence by any person interested in these regulations. All oral testimony or documentary evidence would be considered by the Board pursuant to the requirements of the Administrative Procedures Act before formally adopting the proposed amendments to the regulations, or any recommendations for change that might evolve as a result of the hearing.

Mr. Chang announced that after all interested parties had testified the testimony phase of the hearing would be closed and the Board would then consider the appropriate action to be taken for any regulatory changes. He asked if there were any questions concerning the nature of the proceedings or the procedures to be followed. As there were none, he opened the hearing to the public for oral testimony and/or documentary evidence.

Proposal to Amend Section 1948

There were no public comments.

Ms. Okuma commented that the Department of Consumer Affairs (DCA) had indicated that due to the Board's level of budget reserves, and concern from the Governor's Office over

general fee increases, DCA, State and Consumer Services Agency, and the Department of Finance might not approve the proposed fee increase.

Proposal to Amend Section 1950

John Van Hooser, Ultratech Division, commented that:

- He was in favor of the amendment but felt that applicators would sooner let their licenses lapse, retest for $15 and obtain a new license, before completing continuing education courses with registration fees of approximately $200.

Ken Gordon, Gordon Termite Control, commented that:

- Continuing education programs are already available to registered companies that can be presented to its licensed employees; he did not feel the continuing education requirements were unreasonable.

As there were no further public comments, Mr. Chang concluded the regulatory hearing and opened up the proposals for Board discussion.

Proposal to Amend Section 1948

Mr. Traum expressed concern regarding the ability to establish a continuing education renewal requirement without having an established renewal fee.

Mr. Trongo commented that as the Department may not support the fee regulation amendment, the fee increase should not be pursued.

> Mr. Sesay moved and Mr. Morris seconded to take no action on this matter. Passed unanimously.

Proposal to Amend Section 1950

Mr. Trongo commented that:

- Requiring applicators to complete 16 continuing education hours may be excessive, however, based on the responsibilities of applicators, the hours are justifiable.

Mr. Thurmond commented that:

- Independent of the number of required continuing education hours, there should be statutory or regulatory authority to enforce the continuing education requirement as a condition to renewal.

Mr. Morris commented that:

- Continuing education hours are necessary and the licensing examination should be evaluated to ensure that the level of the examination is consistent with the level of the scope of practice.

James Steffenson, Tallon Termite and Pest Control, commented that:

- California Department of Food and Agriculture requires annual re-training of licensed applicators, which could be used towards continuing education.

Eric Paulson, Pest Control Operators of California, commented that:

- Most pest control operators will not condone the practice of employees allowing their license to expire and re-test for a new license, as the employee cannot practice during the period the license expires and a new license is issued.
- He receives calls from employers regarding the need to establish continuing education requirements for licensed applicators and these types of inquiries supports his belief that employers will not allow a license to lapse without benefit of attending continuing education activities.

Mr. Traum moved and Mr. Thurmond seconded to amend section 1950 as follows:

§ 1950. Continuing Education Requirements

(a) Except as provided in Section 1951, every licensee is required, as a condition to renewal of a license, to certify that he or she has completed the continuing education requirements set forth in this article. A licensee who cannot verify completion of continuing education by producing certificates of activity completion, whenever requested to do by the Board, may be subject to disciplinary action under Section 8641 of the code.

(b) Each licensee is required to gain a certain number of continuing education hours during the three year renewal period. The number of hours required depends on the number of branches of pest control in which licenses are held. The subject matter covered by each activity shall be designated as "technical" or "general" by the Board when the activity is approved. Hour values shall be assigned by the Board to each approved educational activity, in accordance with the provisions of section 1950.5.

(c) For the renewal period ending June 30, 1995, and each subsequent renewal period, operators licensed in one branch of pest control ~~or wood roof cleaning and treatment~~ shall gain 16 continuing education hours during each three year renewal period. Operators licensed in two branches of pest control ~~or one branch of pest control and wood roof cleaning and treatment~~ shall gain 20 continuing education hours during each three year

renewal period. Operators licensed in three branches of pest control ~~or two branches of pest control and wood roof cleaning and treatment~~ shall gain 24 continuing education hours during each three year renewal period. ~~Operators licensed in three branches of pest control and wood roof cleaning and treatment shall gain 28 continuing education hours during each three year renewal period.~~ In each case, a minimum of four continuing education hours in a technical subject directly related to each branch of pest control ~~or wood roof cleaning and treatment~~ held by the licensee must be gained for each branch license and a minimum of eight hours must be gained from Board approved courses on the Structural Pest Control Act, the Rules and Regulations, or structural pest control related agencies' rules and regulations.

(d) For the renewal period ending June 30, 1995, and each subsequent renewal period, field representatives licensed in one branch of pest control ~~or wood roof cleaning and treatment~~ shall have completed 16 continuing education hours, field representatives licensed in two branches of pest control ~~or one branch of pest control and wood roof cleaning and treatment~~ shall have completed 20 continuing education hours, field representatives licensed in three branches of pest control ~~or two branches of pest control and wood roof cleaning and treatment~~ shall have completed 24 continuing education hours during each three year renewal period ~~and field representatives licensed in three branches of pest control and wood roof cleaning and treatment shall gain 28 continuing education hours during each three year renewal period~~. In each case, a minimum of four continuing education hours in a technical subject directly related to each branch of pest control ~~or wood roof cleaning and treatment~~ held by the licensee must be gained for each branch of pest control ~~or wood roof cleaning and treatment~~ licensed and a minimum of eight hours must be gained from Board approved courses on the Structural Pest Control Act, the Rules and Regulations, or structural pest control related agencies' rules and regulations.

(e) For the renewal period ending March 1, 2006, and each subsequent renewal period, a licensed applicator shall have completed 16 hours of Board approved continuing education. Such continuing education shall consist of 12 hours of continuing education

covering pesticide application and use, and four hours covering the Structural Pest Control Act and its rules and regulations or structural pest related agencies' rules and regulations.

~~(e)~~(f) Operators who hold a field representative's license in a branch of pest control ~~or wood roof cleaning and treatment~~ in which they do not hold an operator's license must gain four of the continuing education hours required by section 1950(c) in a technical subject directly related to the branch or branches of pest control ~~or wood roof cleaning and treatment~~ in which the field representative's license is held, in order to keep the field representative's license active.

~~(f)~~(g) No course, including complete operator's courses developed pursuant to section 8565.5, may be taken more than once during a renewal period for continuing education hours.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Sections 8560, 8593 and 8593.1, Business and Professions Code.

Highlighted language is the subject of a regulatory pending file already submitted to the Office of Administrative Law, and is not part of this regulatory action.

Passed unanimously.

V. BOARD MEETING CALENDAR

Future board meetings were scheduled as follows:

July 18 and 19, 2002 - San Jose
October 10 and 11, 2002 - Long Beach

VI. APPROVAL OF JANUARY 18, 2002 MINUTES

Mr. Morris requested a correction to the closed session minutes in which Mr. Roth is referenced as the maker of a motion, when he was not in attendance at the meeting.

Ms. Melton moved and Mr. Morris seconded to approve the minutes of the meeting of January 18, 2002, as amended. Passed unanimously.

VII. REGISTRAR'S REPORT

Ms. Okuma introduced to the Board members Board specialists Greg Adams and Ron Moss, and Deputy Attorney General Board Liaison Robert Eisman. She reported on the following:

- A freeze exemption had been approved for the specialist position. Candidates in the Los Angeles and San Bernardino Areas would be considered. The final filing date was April 17, 2002 and interviews would be conducted at the end of April, with placement to occur sometime in May.

- The specialists recently attended fumigation training school and participated in a staff meeting to review other internal training issues.

- Assembly Bill 1993, introduced by Assembly Member Correa, sponsored by Dow AgroSciences, will be pulled.

Mr. Patzer reported on the following:

- A presentation of California Code of Regulations Section 1999.5, False and Misleading Advertisement, will be postponed until July.

- He spoke at the Pest Control Operators of California District in Solano County.

Ms. Saylor reported on the following:

- Licensing statistics and survey results were reviewed with the Board members.

- The 2002-03 budget was on consent in both the Senate and Assembly.

- The research contract was currently with the Department of General Services for legal review.

VIII. APPROVAL OF LETTER TO INDUSTRY REGARDING THE BOARD'S POSITION ON TOXIC MOLD

Mr. Patzer presented a proposed letter to the industry regarding the Board's position on toxic mold disclosures on wood destroying pests and organism inspection reports.

Mr. Roth moved and Mr. Sesay seconded to refer the proposed statement to a committee comprised of Robert Eisman, Bill Morris, Larry Musgrove, Bob Leitzel, Donald Chang, Dennis Patzer. The motion did not carry (Aye – Morris, Roth, Sesay. No – Melton, Thurmond, Traum, Trongo.)

Mr. Thurmond moved and Ms. Melton seconded to direct staff to prepare a statement to the industry making the following points, subject to review by legal counsel within 30 days, and to be approved by the Board at a special teleconference board meeting:

1. Molds, sometimes called mildew, are not wood-destroying organisms.
2. Board licensees are not required by law to identify and classify mold as to their potential harm to human health.
3. It is beyond the scope of a Branch 3 license to make an identification of the type of mold; i.e. whether it is harmful to human health or not harmful to human health.

Passed unanimously.

IX. APPROVAL OF PROTOCOL REGARDING STAFF RESPONSE TO TOXIC MOLD INQUIRIES

Discussion of this topic was inclusive with discussion of the above topic.

The Board took no further action on this matter.

X. APPROVAL OF PROTOCOL REGARDING STAFF RESPONSES TO UNLICENSED ACTIVITIES

Mr. Patzer presented the process of investigation of unlicensed activity.

The Board took no action on this matter.

XI. STRATEGIC PLAN / ACTION PLAN UPDATE

Ms. Okuma reported as follows:

- Use of Baits and Related Alternative Methods: Dennis Patzer has identified issues to be addressed, and researched what other states are doing relative to this matter. A committee was appointed and is scheduled to meet in Sacramento on May 30, 2002.

- Consumer Outreach: The Consumer Relations and Outreach Division of the Department of Consumer Affairs was contacted to receive the Department' Event Calendar. Mr. Patzer and Ms. Okuma volunteered as public speakers for the Department's Ambassador Program and Speaker's Bureau. Board staff will participate in the Better Business Bureau's Scam Jam 2002 in San Diego on June 6, 2002.

- Development of the Web Site Survey was completed.

Mr. Traum moved and Mr. Thurmond seconded that the Web Site Survey be placed on the Structural Pest Control Board's Website. Passed unanimously.

- The Continuing Education Ad Hoc Advisory Committee: The committee has been established and is scheduled to meet in Sacramento on May 15, 2002.

- Wood Destroying Pest/Organisms (WDO) Internet On-Line Filing: The Department's Office of Information Services was consulted regarding the on-line submission of WDO data over the Internet. The Department indicated it would not allow the Board to go over its infrastructure nor would it maintain the system, but it would allow the Board to purchase its own separate infrastructure and program. A QSFR has been prepared outlining the Board's proposal, and is currently at the Department of Consumer Affairs for approval.

- Review of Laws and Regulations: Ms. Okuma felt the time frame given was too short and requested that the time frame of October 31, 2002 be extended. An updated report will be given at the next Board meeting.

XII. PCOC FUMIGATION COMMITTEE PROPOSED CONNECTING STRUCTURE NOTIFICATION

Michael Sansone, Pest Control Operators of California Fumigation Committee, stated that one of the requirements of 1970.6 is to identify prior to the fumigation whether there are construction elements or conduits present that could allow passage of the fumigant from the structure to be fumigated to any adjacent or adjoining structure(s). Mr. Sansone stated that the fumigation industry was concerned how this reporting should occur, so the fumigation committee was asked to develop an industry standard form that the entire state could utilize. He stated the Board was not being asked to take a position on the form, as the industry would like to try it first to see if there was compliance. The Board was merely being informed on what industry was doing. If there were any further problems, the Board would be consulted regarding an approved form.

XIII. PUBLIC COMMENTS FOR ITEMS NOT ON THE AGENDA

John Van Hooser, Ultratech Division, asked if the Board's position regarding limited inspections on condominiums remained the same: that a limited inspection on a condo is by definition limited and does not require the name of the person requesting the limited inspection.

Mr. Trongo replied that the position remains the same.

Mr. Roth asked how staff was proceeding on the random audits of licensees' continuing education credits.

Ms. Okuma responded that the renewal applications had been amended to reflect the new procedure and were scheduled to be printed the end of April or the first of May for this year's renewal period. As the licensee has from June 30 until September 30 to renew, random audits would begin after September 30.

John Reeves, Bonnie & Clyde Exterminators, Inc., asked if there was a way to get information on testing sooner than the Saturday prior to a Monday examination date.

Vernard Lewis, UC Berkeley, asked for an update on the Research Fund.

Ms. Okuma responded that the Department of Consumer Affairs did not believe the Board had authority to transfer the funds to the Forest Products Laboratory, so it would not proceed with processing the contract. A meeting was subsequently held and clarification was received from legal counsel, and the Department forwarded the contract to the Legal Office of the Department of General Services for a pre-review.

Dave Franklin, Roy L. Burge, Inc., asked the status of the amendment to the inspection report form.

Ms. Okuma indicated that Delores Coleman was putting the rulemaking file together for submission to the Department. She stated it should be submitted to the Department in approximately 30 days.

Mr. Trongo adjourned the meeting at 11:55 AM.

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KEN TRONGO, President KELLI OKUMA, Registrar

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DATE