MINUTES OF THE
SPECIAL MEETING OF THE
STRUCTURAL PEST CONTROL BOARD
July 23 and 24, 2009

The meeting was held on Thursday and Friday, July 23 and 24, 2009, at the Elihu M. Harris Building, 1515 Clay Street, Oakland, California, commencing at 1:04 P.M. with the following members constituting a quorum:

Cliff Utley, President
Cris Arzate, Vice President
Luis Agurto
Jean Melton
Bill Morris

Board member Terrel Ferreira was not present.

Board staff present:
Kelli Okuma, Executive Officer
Robert Lucas, Chief Enforcement Officer
Susan Saylor, Assistant Executive Officer (July 24 only)

Departmental staff present:
Kurt Heppler, Legal Counsel

Board Liaison Deputy Attorney General Christina Thomas was also in attendance.

I. ROLL CALL

Ms. Okuma read the roll call.

II. REINSTATEMENT HEARINGS

The Board sat with Administrative Law Judge David L. Benjamin and Deputy Attorney General Christina Thomas to hear the Petitions for Reinstatement of Tahir M. Bari, Field Representative's License No. 40731, Wayne Coleman, Field Representative's License No. 24180, and George Davenport, Operator's License No. 7377. The petitioners were informed that they would be notified by mail of the Board's decision.

III. PETITION FOR MODIFICATION / TERMINATION OF PROBATION

The Board sat with Administrative Law Judge David L. Benjamin and Deputy Attorney General Christina Thomas to hear the Petitions for Modification / Termination of Probation of Gallegos Pest Control, Company Registration No. 4415, and Angel Gallegos, Operator's License No. 10788. The petitioner was informed that he would be notified by mail of the Board's decision.

IV. 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 6:07 P.M.

The meeting reconvened Friday, July 24, 2009, at 9:05 A.M.

Ms. Saylor read the roll call.

VI. FLAG SALUTE

Ms. Melton led everyone in the flag salute.

VII. PUBLIC HEARING TO AMEND CALIFORNIA CODE OF REGULATIONS SECTION 1971 (a) (1) (B) TO REMOVE REFERENCES TO GAS MASKS, SECTION 1997 TO INCREASE THE WDO ACTIVITY FEE, AND SECTION 1996.3 TO AMEND THE WDO FILING FORM TO REFLECT THE FEE INCREASE

Mr. Heppler announced for the record that this hearing was to consider the proposed amendments of sections 1971, 1996.3 and 1997 of Title 16 of the California Code of Regulations (CCR) relating to the practice of structural pest control, as outlined in the public notice. This hearing was being held pursuant to section 8525 of the Business and Professions Code as well as the provisions of the Administrative Procedures Act as set forth in the Government Code. The hearing was open to take oral testimony and / or documentary evidence by any person interested in these regulations for the record, which was being made by tape recorder. All oral testimony and documentary evidence would be considered by the Board pursuant to the requirements of the Administrative Procedures Act before the Board formally adopted the proposed amendments to the regulations, or recommended changes that may evolve as a result of the hearing.

Mr. Heppler stated that if any interested person desired to provide oral testimony, he or she should stand or come forward, giving his or her name and address, and if he or she represented an organization, the name of such organization, and that persons offering oral testimony would not be cross-examined or sworn. These steps would be followed so that the Board would have a full record of all those who offered such testimony. He stated it was the desire of the Board that the record of the hearing be clear and intelligible and that the hearing itself be orderly, thus providing all parties with fair and ample opportunity to be heard. After all interested parties, if any, had been heard, the issue would stand submitted.

Mr. Heppler asked the audience if there were any questions concerning the nature of the proceedings or the procedures to be followed in today's public hearing. As there were none, he stated they would proceed in numerical order to consider the Board's proposed amendments to the regulations.

Proposed Amendment of Regulation Section 1971(a)(1)(B)

Mr. Heppler asked the audience if anyone would like to offer oral comments of support or objection to the proposed amendments to CCR section 1971(a)(1)(B).

There were no public comments.

Proposed Amendment of Regulation Section 1996.3

Mr. Heppler asked the audience if anyone would like to offer oral comments of support or objection to the proposed amendments to CCR section 1996.3.

There were no public comments.

Proposed Amendment of Regulation Section 1997

Mr. Heppler asked the audience if anyone would like to offer oral comments of support or objection to the proposed amendments to CCR section 1997.

There were no public comments.

There being no further public comments, Mr. Heppler concluded the regulatory hearing and opened up the proposals for Board discussion.

Proposed Amendment of Regulation Section 1996.3

Ms. Melton moved and Mr. Arzate seconded to adopt the proposed amendment to section 1996.3 of the California Code of Regulations as follows, delegate authority to the executive officer to prepare the final statement of reasons and the rulemaking file, and transmit the file to the Office of Administrative Law for adoption:

§1996.3. Requirements for Reporting Property Addresses.
The address of each property inspected and/or upon which work was completed shall be reported on a form prescribed by the Board and designated as the WDO Inspection and Completion Activity Report Form (see Form No. 43M-52 Rev. 5/~~03~~09) at the end of this section. This form shall be prepared by each registered company and shall comply with all of the requirements pursuant to Section 8516(b), and 8518.
(b) The form shall contain the following information for each property inspected and/or upon which work was completed.
(1) Company Name
(2) Company registration number
(3) Branch office registration number (when a branch office issues an inspection report or notice of work completed
(4) Date of Activity
(5) Address of property inspected or upon which work was completed, including zip code
(6) Activity Code
(7) License number of licensee performing the inspection

(c) Failure of a registered company to report and file with the Board the address of any property inspected or upon which work was completed pursuant to Section 8516(b) or 8518 are grounds for disciplinary action and subject to a fine of not more then two thousand five hundred dollars ($2,500).

Passed unanimously.

Proposed Amendment of Regulation Section 1997

Ms. Melton moved and Mr. Arzate seconded to adopt the proposed amendment of section 1997 of the California Code of Regulations as follows, delegate authority to the executive officer to prepare the final statement of reasons and the rulemaking file, and transmit the file to the Office of Administrative Law for adoption:

§1997. WDO Inspection and Completion Activity Fee.
Pursuant to the provisions of section 8674 of the Business and Professions Code, the following fee is determined, set and established:
(1) Activity Reporting fee per Property Address $1.50. Effective July 1, 2010, the Activity Reporting fee per Property Address is $2.00.

Passed unanimously.

Proposed Amendment of Regulation Section 1971(a)(1)(B)

Mr. Utley moved and Ms. Melton seconded to adopt the proposed amendment of section 1971(a)(1)(B) of the California Code of Regulations as follows, delegate authority to the executive officer to prepare the final statement of reasons and the rulemaking file, and transmit the file to the Office of Administrative Law for adoption.

§1971. Fumigation Safety Kit and Other Equipment.
(a) All fumigation crews shall be provided with and shall have in their possession on the job:
(1) A fumigation safety kit, in proper condition for use, containing at least the following:
(A) Statements of instructions published by the manufacturer of the fumigants being used.
~~(B) Two or more effective gas masks or other safety equipment approved by the National Institute of Occupational Safety and Health, for protection against the type of fumigant being used.~~
~~(c)~~(B) A chart of instructions for artificial resuscitation.
(2) Proper testing equipment as required by the manufacturer's label instructions and all applicable laws and regulations.
(b) The crew shall be instructed in the use and care of kit and safety equipment and in first aid methods.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Sections 8505.4, 8505.8~~, 8505.15~~ and 8505.16, Business and Professions Code.

The motion was withdrawn.

Mr. Morris moved and Mr. Agurto seconded to table the matter until the next board meeting, noticing for additional public comment. Passed unanimously.

VIII. APPROVAL OF APRIL 16, 2009, BOARD MEETING MINUTES

Mr. Arzate moved and Ms. Melton seconded to approve the minutes of the special meeting of April 16, 2009. Passed unanimously.

IX. APPROVAL OF REVISED BOARD MEETING MINUTES

Mr. Arzate moved and Ms. Melton seconded to approve the revised minutes of the November 18, 2008, closed session.

Mr. Morris moved and Mr. Agurto seconded to approve the revised minutes of the January 23, 2009, closed session.

X. EXECUTIVE OFFICER'S REPORT

Ms. Okuma reported on the following:

- In January 2009, Governor Schwarzenegger released proposals for government efficiency, naming 18 ways to consolidate, eliminate, and reorganize government. The Structural Pest Control Board was not named in that list for consideration. Those boards and bureaus within the Department of Consumer Affairs that were named in the proposal were given opportunity to provide information to address the proposed consolidations, eliminations and reorganizations of the respective boards and bureaus. On Wednesday, June 10, 2009, Senate President pro Tem Darrell Steinberg issued a press release announcing hearings to consider state government reorganizations and consolidations. The Structural Pest Control Board was not named on that list. On the same date, the Board received an invitation from Senator Gloria Negrete McLeod, Chair of the Senate Committee on Business, Professions and Economic Development to attend a special hearing on the "Governor's Elimination, Consolidation and Reorganization Proposals" to be held on Monday, June 15, 2009. The Board's Executive Officer was asked to make a presentation and provide insight that would help the Committee make informed decisions regarding the proposed changes. The Department of Consumer Affairs' Acting Chief Deputy Director assured the Board there was no need to attend, as the Structural Pest Control Board was not on the list for consideration. However, the Consultant for the Senate Committee on Business, Professions and Economic Development stated the Structural Pest Control Board was now on the list for consolidation with the Department of Pesticide Regulation. At the hearing, the Committee voted to consider merging the Board with the Department of Pesticide Regulation. No further information was forthcoming regarding the proposal until today's date when it was learned that ABX4 20, which contained language for the consolidation, passed out of the Senate and would be heard by the Assembly this same date.
- Mustapha Sesay's term as a member of the Board expired on June 1, 2008. He is eligible for reappointment, having served one full term and one partial term. The

Speaker of the Assembly did not reappointed Mr. Sesay within the one-year grace period, and due to budget issues, is not filling any board appointments at this time.

- The Memorandum of Understanding with Santa Barbara County to proctor the Board's applicator examination was not renewed due to lack of county resources to provide necessary security during the examination process.
- Due to budget constraints, the Department of Consumer Affairs will no longer be able to provide staff to facilitate the Board's strategic planning session, originally scheduled for this meeting.

Mr. Morris requested that Board staff facilitate a strategic planning session at the next board meeting.

Ms. Saylor reported on the following:

- Ryan Vaughn, Administration Unit, accepted a position with the Department of Consumer Affairs' Telecommunications Unit.
- Lisa Esquivel, Administration Unit, accepted a position with the Department of Consumer Affairs, Board of Pharmacy.
- Karen Lauritzen, Complaint Unit, will retire at the end of July.
- Priscilla Romero, Licensing Unit Supervisor, has been on a leave of absence as of June 1 and is due to return to work by the end of July.
- Applicator renewal audits will start in August for first-quarter 2009 renewals (January 09 – March 09).

Mr. Morris requested that continuing education audit statistics be included in the monthly statistical report for the Licensing Unit.

- Updated Branch 1 examinations for the field representative license and the operator license are now in place. Revision of all board licensing examinations is complete. A legislative amendment must now be sought to increase the statutory fee caps for the administration of the licensing examinations in order to enter into an agreement for computer based testing.
- Updated continuing education challenge examinations for all license categories and branches are now in place.
- The final report for Dr. Klotz' research project "A Comparison of Baiting and Perimeter Spray Programs for Urban Pest Management of Argentine Ants: A Demonstration and Costs" was provided to the Board Members.
- Dr. Rust requested and was granted a time-only extension on the research project "Developing Baits for the Control of Yellowjackets in California."
- The Office of Administrative Law approved the rulemaking file amending California Code of Regulations section 1999.5. The amendments will become effective August 16. A notice will be mailed to all registered companies.

Mr. Lucas reported on the following:

- Certification for the Structural Pest Control Board Specialist examination is in the survey phase for the job analysis. It is anticipated that the civil service examination will be offered in September 2009.
- Staff has updated the CAS data system to better track compliance inspections.
- Recruitment to hire a Consumer Services Representative will begin for an anticipated vacancy due to a retirement in December.

Kathy Roach, Alameda County Agricultural Commissioner's Office, and Simone Hardy, Sonoma County Agricultural Commissioner's Office were introduced to the Board.

XI. CONSIDERATION OF REQUEST THAT CALIFORNIA CODE OF REGULATIONS SECTION 1991 (a) (12) BE AMENDED CONSISTENT WITH CURRENT PLUMBING CODES TO ENSURE ACCURATE SHOWER STALL WATER TESTING

Mr. Lucas reported that existing regulation specifies the testing for stall showers as a fifteen-minute water test after the shower drain has been plugged and the base filled to within one inch of the top of the shower dam. Stall showers with no dam or less than two inches to the top of the dam are to be water tested by running water on the unplugged shower base for a minimum of five minutes.

It has been reported to the Board that certain stall shower pans or waterproofing membranes are approximately three to four and a half inches in height while finished dams may be as much as seven to eight inches in height. If a fifteen-minute testing procedure as specified in CCR section 1991 is followed, a dam that is seven inches in height and a waterproofing membrane that is four inches in height could result in water leakage.

The request seeks to modify testing requirements. For dams greater than two inches in height or finished drains that are more than two inches below the top of the dam, water testing should be conducted by requiring that water levels be two inches above the top of a finished drain in conformance with Uniform Plumbing Code (UPC) Section 411.6. The UPC states that all shower dams shall be a minimum of two inches above the top of the finished drain. It was suggested that there are few if any methods, other than destructive testing, to verify the exact height of the waterproofing membrane in relation to the height of the dam, and that the current testing procedure creates false-positive results.

Mr. Heppler stated the request is a quasi petition to amend regulation to conform to the Uniform Plumbing Code and will be addressed as such a petition.

Mark Maxwell, Key Termite and Pest Control, informed the Board that by following the regulation, some functioning showers fail the shower test. He believes CCR section 1991 exceeds the requirements of section 411.6 of the UPC.

> Mr. Arzate moved and Mr. Morris seconded to refer the matter to the Technical Advisory Committee. Passed unanimously.

Mr. Utley stated that the notice for the Technical Advisory Committee will be made available to the public and that members of the public are encouraged to attend and provide input to the committee as it evaluates this matter.

XII. CONSIDERATION OF PETITION TO ADOPT REGULATIONS TO ENFORCE AND CLARIFY BUSINESS AND PROFESSIONS CODE SECTION 8666

Elizabeth A. Cason, Foley & Lardner, filed a petition with the Board pursuant to California Government Code Section 11340 which provides that any interested person may petition a state agency to request the adoption, amendment, or repeal of a regulation.

Business and Professions Code section 8666 states:

> It shall be unlawful for any licensee under this chapter to recommend or to perform any pest control corrective work under any contract or agreement that the licensee knows or has reason to know is in excess of that required to eliminate the condition for which the licensee was employed.
>
> A violation of this section is a public offense and is punishable upon the first conviction by imprisonment in the county jail for not more than six months, or by a fine not to exceed ten thousand dollars ($10,000), or by both that imprisonment and fine.

Ms. Foley, representing the IPMCC (acronym unknown), states in her petition that the IPMCC believes that excessive treatment is a very common occurrence. The inherent ambiguity of section 8666 makes it likely that licensees will recommend and perform treatment in excess of that which is required by the task at hand. The IPMCC believes that, in many if not most cases, fumigation constitutes excessive treatment because: a) termite infestation typically impacts only a small portion of the structure, b) parts of a structure once considered inaccessible can now be reached, and c) fumigation with sulfuryl fluoride has significant environmental and health risks which make its use over-treatment in all but the most extreme cases of infestation.

Mr. Heppler advised the Board that after review and consideration, the Board could grant the petition in whole or in part, deny the petition in whole or in part, or review the matter further. The decision of the Board will be published in the Office of Administrative Law's California Regulatory Notice Register.

Mr. Utley asked that persons speaking to the petition not duplicate statements made by others, but rather state they concur with comments made by a previous speaker.

Mr. Utley asked if anyone present wanted to speak in favor of the petition.

The petitioner was not present.

No comments were received in favor of the petition.

John Van Hooser, Able Exterminators, stated that the nexus of this petition is local treatments versus fumigations, and that both treatment methods have a place. The only time problems occur is when someone calls for fumigation when local treatment is a better method, and when someone calls for local treatment when fumigation is a better method. He stated that some registered companies promote use of specific products as a whole-house treatment method, then, perform local treatments for costs that exceed the cost of fumigation. He believes that practice is recommending excessive work and is a violation of 8666.

Mr. Utley commented that the Structural Pest Control Act does not support the contention that parts of a structure once considered inaccessible can now be accessed for inspection.

Bryan Houtchens, Team Too, stated that rules are already in place to address this matter. Registered companies are required to inform consumers that all registered companies should list the same findings when inspecting a structure, however, recommendations for corrective measures may vary from company to company. This allows companies to offer different services. There is good law in place that allows for the free market enterprises system to exist where companies can then make a recommendation that satisfies the consumer's needs. Existing law is sufficient and there is no need to proceed with additional regulation.

Mr. Utley commented that the petitioner is not only claiming that fumigations are excessive, but that use of sulfuryl fluoride is completely unacceptable.

Mr. Heppler commented that everyone is cognizant of environmental concerns.

Joe Gatto, Clark Pest Control, commented that his company offers local and full-structure treatments. Information is provided to the consumer to assist the consumer in making a choice for treatment. Existing law is sufficient for enforcement when licensees make excessive recommendations. There is no need to proceed with additional regulations. He referenced a Board-funded study in 1994 in which 70 percent of all treatments conducted on a specific group were local treatments and 30 percent were fumigation. He believes that in today's market, the percentage of fumigations is even less due to the saturation of advertisements for local-treatment products and services. Because of these radio and television advertisements, consumers are more frequently requesting local treatment methods, when, in the expert opinion of the licensee inspecting the structure, local treatment is not an effective treatment method for that specific instance. The petitioner contends that infestation typically impacts only a small portion of the structure. Only consumers should be able to decide the level of infestation that is acceptable in their homes.

Mike McKenzie, Orkin, commented that he has worked with all the detection technologies with the exception of dogs. There are problems associated with each. The borescope as an inspection device is not practical in that a hole must be made in every stud. This leads to the same concerns being addressed by the Board relative to test holes. Infrared is good at detecting moisture only. It cannot detect drywood termites, but can detect subterranean termites. However, numerous holes would have to be drilled throughout the structure. Microwaves are ineffective in certain weather conditions. Insulation is a barrier for detection devices. And infestations often are within the interior of the wood member and not visible with any of the detection devices.

Mr. Utley stated that the petitioner's comments include inconsistencies and inaccuracies.

Vernard Lewis, University of California, Berkeley, stated that data results from his pending local treatment and detection research project would be provided to the Board at its October meeting.

Janet Rowley, Dow Agro Sciences, commented that the Department of Pesticide Regulation is the proper regulatory authority to address the issues brought forth by the petitioner in this matter. The magnitude of global warming issues referenced by the petitioner is very complicated with many different authorities.

Patrick Smith, Prime Exterminators, commented that the petitioner appears to represent orange oil, a product for which there are no safety or efficacy studies.

Martyn Hopper, Executive Vice President, Pest Control Operators of California (PCOC), commented that PCOC supports the law as is, it is not ambiguous and no further clarification is necessary.

Joe Gatto, Clark Pest Control, commented that his company offers fumigations and local treatments and that the profit margin for local treatments is ten times better than that of fumigation.

Michael Katz, Western Exterminator Company, commented that his company offers multiple treatment methods. He reminded the Board that advertising and overselling of orange oil remains for him an unresolved issue. He views the petition as a tactic of misdirection. The industry is still bound by California Code of Regulations section 1991(a)(8) which requires a recommendation for an all-encompassing treatment method if infestations extend into inaccessible areas. The technology referred to by the petitioner does not allow the industry access to inaccessible areas for reasons addressed by a previous speaker. The statue and false advertising rules are in place to a great extent as a result of new technologies such as the Blizzard System. The industry has asked the Board to address the issue of overstating certain technologies to consumers. He questioned how the Board could substantiate a violation of overcalling.

Dennis Merrill, Killroy Pest Control, agreed with statements made by previous speakers. He views the request as a blatant attempt to get the Board to do marketing for the special interest of the petitioner's client. He further views the facts provided by the petitioner as nothing more than junk science.

Greg Augustine, Harbor Pest Control, commented that his company is registered in branches 1, 2, and 3 and recommends local treatments and fumigations. In escrow situations, the reputation of his company is dependent on a certification based on findings, or lack of findings, of infestations and infections in visible and accessible areas of the structure. When new owners begin opening walls or remodeling the structure and find infestations, he must be able to rely on the ability to find visible and accessible evidence.

Mr. Utley commented that the petitioner does not address all the facts relative to this matter and suggested there is not enough factual information to support the petition.

Mr. Morris moved and Mr. Arzate seconded to deny the petition based on the following:

- California Code of Regulations section 1991 provides sufficient clarity relating to the recommendations upon finding an infestation or infection of wood destroying pests or organisms in an inaccessible area(s).
- Business and Professions Code section 8666 provides sufficient clarity as to treatment recommendations made in excess of those required to eliminate the condition for which the Board licensee was employed.
- The methods suggested by petitioner to detect termites in inaccessible areas have practical limitations.
- While cognizant of environmental concerns, the issue of global warming is outside the Board's jurisdiction.

Passed unanimously.

XIII. CONSIDERATION OF TECHNICAL ADVISORY COMMITTEE RECOMMENDATION TO CONCLUDE THAT THE MAKING OF TEST HOLES DURING INSPECTIONS IS CONSIDERED PART OF THE INSPECTION RATHER THAN DEFINED AS WORK

Mr. Lucas reported that the Technical Advisory Committee met on May 19, 2009, in Sacramento. There was discussion regarding the practice of making inaccessible areas visible during Branch 3 structural inspections by way of installing test holes during an inspection to determine infestation or infection. The committee, after discussion, voted to recommend to the Board that if test holes are made during an inspection at no additional charge, the procedure will be deemed part of the inspection and not work, and that test holes must be filled at the time of the inspection. Following the committee making this recommendation, additional information was provided to the committee regarding the matter of whether building permits would be required when making such test holes. The committee, meeting on a separate matter, asked that the committee be allowed to review this matter further before the Board considered its recommendation. Mr. Lucas further commented that some jurisdictions reported the need to have a permit, others indicating a permit would not be required. Still to be considered should be the size of the test hole, number of holes, etc. He also commented that if a permit is required, a cost is generally associated with that permit.

Mr. Heppler suggested that if the matter were referred back to the Technical Advisory Committee, that the committee be tasked with drafting regulatory language.

> Mr. Arzate moved and Ms. Melton seconded to direct the Technical Advisory Committee to complete its review of the matter and present regulatory recommendations to the Board. Passed unanimously.

XIV. DISCUSSION AND CONSIDERATION OF THE REMOVAL OF CANCELLED LICENSE INFORMATION FROM STRUCTURAL PEST CONTROL BOARD'S WEB LICENSE LOOKUP SITE

Ms. Okuma reported there was discussion at the last board meeting of the requirement to post employment information on the Board's website. It was suggested at that meeting that references to cancelled licenses be removed from the website as those individuals are no longer licensees of the Board. Removal of this information from the website may relieve some problem for registered companies that are fielding consumer inquiries about the status of licensee records associated to the company registration record.

Ms. Okuma informed the Board that the Department of Consumer Affairs' (DCA) Office of Information Services has confirmed that it is possible to remove cancelled licenses from the website. Removal of this information will result in no ability to publicly access cancelled license / registration information from the website. The process is reversible should the Board conclude, after a period of monitoring any feedback, that the public is better served having access to the cancelled license / registration information.

> Mr. Arzate moved and Ms. Melton seconded to direct staff to proceed with removing cancelled license and registration information from the website, and to add a disclaimer that cancelled licenses and registrations do not appear on the site, and persons seeking information about cancelled licenses and registrations should contact the Structural Pest Control Board. Passed unanimously.

XV. CONSIDERATION OF REQUEST TO SUPPORT LEGISLATION TO AMEND CALIFORNIA CIVIL CODE SECTIONS 1364(b)(1) AND 1365.5(e) TO MAKE IT A VIOLATION OF LAW FOR A LICENSED CONTRACTOR TO PERFORM STRUCTURAL PEST RELATED REPAIRS WITHOUT BENEFIT OF A WOOD DESTROYING PEST AND ORGANISM INSPECTION PERFORMED BY A STRUCTURAL PEST CONTROL BOARD LICENSEE

Mr. Utley announced the requestor of this agenda item has withdrawn his request that this matter be considered. There were no public comments.

XVI. CONSIDERATION OF RECOMMENDATION TO SEEK LEGISLATIVE AMENDMENT CHANGING THE APPLICATOR LICENSE RENEWAL DATES FROM THE CURRENT STAGGERED DATES BASED ON THE DATE OF ISSUANCE TO A JUNE 30 TRIENNIAL RENEWAL

Ms. Okuma reported that at the last board meeting, Curtis Good suggested the Board consider making applicator licenses expire on June 30, consistent with the expiration dates of the field representative and operator licenses, as the industry is most familiar with the June 30 expiration date. This change would better serve the industry in managing employees' license renewals. Ms. Okuma informed the Board that the Department of Consumer Affairs (DCA) processes the Board's renewal applications. DCA informed Board staff that processing the current staggered workload within the existing renewal period would not present a hardship therefore DCA should not be opposed to such a legislative proposal.

Martyn Hopper, Executive Vice President, Pest Control Operators of California (PCOC), stated that PCOC supports the recommendation.

> Mr. Morris moved and Mr. Agurto seconded to seek a legislative amendment to amend the applicator license triennial renewal expiration date to June 30. Passed unanimously.

XVII. CONSIDERATION OF RECOMMENDATION TO AMEND CALIFORNIA CODE OF REGULATIONS SECTION 1974 TO SPECIFY THAT THE TRADE NAME AND THE ACTIVE INGREDIENT NAME OF THE FUMIGANT USED BE PLACED ON THE FUMIGATION WARNING SIGN

Ms. Okuma reported that representatives from the Department of Pesticide Regulation, the Structural Pest Control Board, and Orange, Los Angeles, San Diego and Santa Clara County Agricultural Commissioners recently discussed the matter of adding fumigant trade names and active ingredient names to the Fumigation Warning Sign. Some registered companies include both the trade name and active ingredient name on the warning sign, but Business and Professions Code section 8505.10 and California Code of Regulations section 1974 do not specify that both names be included. Emergency responders need to know the active ingredient name (sulfuryl fluoride) from the warning signs. County Agricultural Commissioners need the trade name since there are some label variations between the three sulfuryl fluoride products that influence enforcement requirements.

> Mr. Morris moved and Mr. Arzate seconded to notice for public hearing an amendment of section 1974 to require that the trade name and the active ingredient name of the fumigant be placed on the Fumigation Warning Sign. Passed unanimously.

XVIII. CONSIDERATION OF RECOMMENDATION TO AMEND CALIFORNIA CODE OF REGULATIONS SECTION 1996.1 TO REQUIRE THAT THE TRADE NAME AND THE ACTIVE INGREDIENT NAME OF THE CHEMICAL USED BE PLACED ON THE INSPECTION AND COMPLETION TAGS

Ms. Okuma reported that the same representatives from the previous agenda item also discussed the matter of adding the trade names and active ingredient names of chemicals used on the inspection and completion tags. There is some confusion as to whether the "name of any chemical" means the tag should state the "trade name" or whether it means stating the active ingredient. There is an enforcement need to differentiate between the various sulfuryl fluoride products, and to allow for statewide enforcement uniformity.

> Mr. Agurto moved and Mr. Morris seconded to notice for public hearing the amendment of section 1996.1 to require that the trade name and the active ingredient name of the chemical used be placed on the inspection and completion tags. Passed unanimously.

XIX. DEPARTMENT OF PESTICDE REGULATION UPDATE

The update on issues of interest to members of the Structural Pest Control Board was submitted in writing due to the Governor's Executive Order requiring state employees to take July 24, 2009 off as a mandated furlough day.

XX. FUTURE AGENDA ITEMS

No future agenda items were requested.

XXI. BOARD MEETING CALENDAR

The next meeting of the Structural Pest Control Board will be scheduled in Riverside on October 21 and 22, 2009.

XXII. SUMMARY OF ALL ACTIONS TAKEN BY THE STRUCTURAL PEST CONTROL BOARD AT THIS MEETING

- Adopted proposed amendment of section 1996.3.
- Adopted proposed amendment of section 1997.
- Tabled proposed amendment of section 1971(a)(1)(B).
- Approved minutes of the meeting of April 16, 2009.
- Approved the revised minutes of the meetings of November 18, 2008 and January 23, 2009.
- Referred shower stall water testing issue to the Technical Advisory Committee.
- Denied petition to adopt regulation to clarify section 8666.
- Directed Technical Advisory Committee to continue review of test hole issue.
- Directed staff to remove cancelled license/registration information from website.
- Seek legislative amendment to change applicator license renewal date to June 30.
- Notice for public hearing amendment to section 1974.

- Notice for public hearing amendment to section 1996.1.
- Next meeting in Riverside on October 21 and 22, 2009.

XXIII. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

There were no public comments.

V. TRAINING SESSION: ETHICAL DECISION MAKING FOR REGULATORS

Kurt Heppler, DCA Legal Counsel, introduced a proactive presentation on "Ethical Decision Making for Department of Consumer Affairs Board Members" to promote good government and to maintain the public's trust in all DCA Boards.

The objectives of the presentation were to create an awareness of potential ethical dilemmas that Board members may encounter, and to provide suggested methods for resolving them. Portions of the Bagley-Keene Open Meeting Act were covered, including situations where there is either a need to disqualify oneself from voting on or abstaining from a matter based upon a conflict of interest, and ex parte communications.

XXIV. ADJOURNMENT

Mr. Utley adjourned the meeting at 12:58 P.M.

Clifford J Utley
PRESIDENT

Kelli Okuma
KELLI OKUMA, Executive Officer

10-22-09
DATE