

**MINUTES OF THE MEETING OF THE
STRUCTURAL PEST CONTROL BOARD**

July 21, 2021

The meeting was held July 21, 2021 via WebEx Events

Board Members Present:

Curtis Good, President
Derek Devermont, Vice President
Kyle Finley
Nicky Kapadia

Board Members Absent:

Ronna Brand
Janet Thrasher

Departmental Staff Present:

Sabina Knight, Legal Counsel

Board Staff Present:

Susan Saylor, Executive Officer
Kristina Jackson-Duran, Administrative Analyst
David Skelton, Administrative Analyst

ROLL CALL / ESTABLISHMENT OF QUORUM

Mr. Good called the meeting to order at 9:03 A.M. and Ms. Saylor called roll.

Mr. Good, Mr. Devermont, Mr. Finley, and Ms. Kapadia were present.

Ms. Brand and Ms. Thrasher were absent.

A quorum of the Structural Pest Control Board (SPCB) was established.

FLAG SALUTE / PLEDGE OF ALLEGIANCE

Mr. Good led everyone in a flag salute and recitation of the Pledge of Allegiance.

PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA

There were no public comments for items not on the agenda.

PETITION FOR REINSTATEMENT

JUAN CARLOS AQUINO – RA 45842 – BRANCHES 2 & 3

The Petition for Reinstatement for Mr. Aquino was not heard due to Mr. Aquino's absence.

PETITION FOR REINSTATEMENT

HUMBERTO SAENZ, JR. – RA 46669 – BRANCHES 2 & 3

Administrative Law Judge Sean Gavin sat with the SPCB to hear the Petition for Reinstatement for Humberto Saenz Jr., Applicator License Number 46669, Branches 2 & 3. Mr. Saenz was informed that he would be notified by mail of the SPCB's decision.

CLOSED SESSION

Pursuant to Government Code section 11126(c)(3) the SPCB met in Closed Session to discuss and take action on disciplinary matters including the Petition for Reinstatement.

The SPCB Reconvened in Open Session

REVIEW AND POSSIBLE APPROVAL OF THE MINUTES OF THE MARCH 9, 2021 SPCB MEETING

Mr. Finley moved and Mr. Good seconded to approve the Minutes of the March 9, 2021 SPCB Meeting. Passed unanimously.

(AYES: Good, Devermont, Finley, Kapadia. NOES: None. ABSTENTIONS: None.)

DEPARTMENT OF PESTICIDE REGULATION UPDATE

Peggy Byerly, Department of Pesticide Regulation (DPR), updated the SPCB on the following topics:

- DPR Director Val Dolcini and DPR Chief Deputy Director Jesse Cuevas both left DPR and accepted new positions elsewhere. California Environmental Protection Agency Secretary Blumenfeld appointed Julie Henderson as the acting DPR Director, and Dr. Karen Morrison as the acting DPR Chief Deputy Director.
- DPR's sulfur dioxide (SO₂) work has shifted to the Environmental Monitoring Branch where modeling work is occurring to see what level of additional mitigation is necessary to meet the new range of concentrations generated by our Human Health Assessment Branch in their SO₂ Risk Characterization Document addendum (between 0.25-0.75 ppm). The DPR scoping memo that captures this in more detail is posted at:

https://www.cdpr.ca.gov/docs/whs/pdf/sulfur_dioxide_mitigation_012221.pdf

- In May 2021 the United States Environmental Protection Agency (USEPA) posted a docket for public comment on their draft interim SO₂ mitigation proposals for major label changes and related items regarding residential fumigations. Several DPR branches are reviewing the risk assessments and mitigation proposals. On July 9, 2021 USEPA posted that their 60 day public comment period was extended from July 26, 2021 to Sept 23, 2021. The link to access the EPA-HQ-OPP-2009-0136-0097 and submit comments is:

<https://www.regulations.gov/docket/EPA-HQ-OPP-2009-0136/document>

- In March 2021 state lead agencies were sent a request to fill out a short survey related to the USEPA SO₂ mitigation proposals. The 6 questions asked which SO₂ clearance devices were being used for residential fumigations and estimated number of each of the 4 type devices. Additionally, whether states had a workgroup reviewing the proposals, and whether there were any EPA proposals of concern. This survey was not in lieu of the state or agencies providing their own comments to USEPA, but the Association of Structural Pest Control Regulatory Officials (ASPCRO) does plan to compile their survey information and share with USEPA.

EXECUTIVE OFFICER'S REPORT

Ms. Saylor reported to the SPCB on the following items:

- Licensing, Examination, and Wood Destroying Organism (WDO) statistics and the SPCB's 3 Fund Condition statements.

Mr. Good stated that the examination passing rates have improved and asked Ms. Saylor if that is attributable to anything.

Ms. Saylor stated that the improved passing rates are likely the result of the Office of Professional Examination Services (OPES) being diligent about removing poorly performing questions from the examinations and re-working them at subject matter expert workshops.

Mr. Finley stated that the Operator examination seemed to be the only one with an improved passing rate and asked if there was an ideal passing rate that is targeted.

Ms. Saylor stated that it is difficult to quantify an ideal passing rate and agreed that the Operator examination was the only one with an improved passing rate.

Ms. Saylor clarified that although the Fund Condition for the Research Fund shows a balance of \$675,000 the current research projects the SPCB has selected for funding still has \$670,000 committed to them and it would not be feasible at this time to solicit new research for funding.

➤ Exam Development

Ms. Saylor stated that the SPCB's examination development workshops have been on hold due to the pandemic but the goal is to begin holding them again in August 2021.

Mr. Good stated his enthusiasm for beginning the examination development process again and suggested that the workshops be held November through January to avoid the busy time of the year for industry.

➤ Board Member Procedure Manual (BMPM)

Ms. Saylor stated that the SPCB was recently made aware that in addition to the Board Member orientation training offered by DCA, the SPCB should have additional orientation materials specific to the SPCB to share with new Board Members. Ms. Saylor further stated that Ms. Jackson-Duran and Ms. Knight created the BMPM for that purpose and once it is approved it will be printed and available for the Board Members to view as well as to new Board Members immediately to assist in the onboarding process.

Mr. Good stated that he reviewed the BMPM and felt it would be an invaluable resource for new Board Members and commended Ms. Saylor & Ms. Jackson-Duran on doing an excellent job.

Ms. Knight stated that a motion to adopt the BMPM should include a delegation of authority to the Executive Officer to make any changes that become necessary due to changes in the law or DCA policy.

Mr. Finley stated that he found the BMPM very informative and thanked staff for putting it together.

Ms. Kapadia stated that the BMPM was very informative and that it would have been very helpful to have it before her DCA orientation training.

Mr. Good moved and Mr. Finley seconded to adopt the BMPM and to delegate to the Executive Officer the authority to make any changes that become necessary. Passed unanimously.

(AYES: Good, Devermont, Finley, Kapadia. NOES: None. ABSTENTIONS: None.)

➤ Publication of 2021 SPCB Act Book

Ms. Saylor stated that Mr. Skelton has been working on the publication of a 2021 SPCB Act Book and that draft copies arrived on July 20, 2021 for staff to approve. Ms. Saylor further stated that the SPCB will provide a complimentary copy of the new book to all registered companies while also including a pre-order form to give them an opportunity to purchase additional copies, for \$10 each, as needed. Lastly, Ms. Saylor stated that complimentary copies of the new book will be sent to the County Agricultural Commissioners, Attorney General offices, and DPR.

Mr. Good asked if the 2021 SPCB Act Book will still be available on the SPCB website.

Ms. Saylor stated that the 2021 SPCB Act Book will still be available and free to download on the SPCB website.

➤ Review of 2014 Strategic Plan and Preparation for 2022 Strategic Plan

Ms. Saylor stated that the SPCB's 2014 Strategic Plan has expired and the process to create a 2022 Strategic Plan is currently underway in coordination with Shelly Jones from DCA's SOLID team. Ms. Saylor further stated that as part of the development process, industry stakeholders will soon receive surveys and Ms. Jones will begin to conduct phone interviews with the Board Members. Lastly, Ms. Saylor stated that in the past the process was delayed due to the pandemic and the number of new Board Members and their unfamiliarity with SPCB processes.

➤ SPCB 2022 Sunset Review

Ms. Saylor stated that programs in DCA undergo a sunset review process every 4 years wherein the legislature thoroughly examines program performance and that the current sunset date for SPCB is January 1, 2023. Ms. Saylor further stated that SPCB staff will be working with the Legislature's Business and Professions Committee staff on answering any questions they have and ultimately on the creation of a bill to extend the SPCB's sunset date which is written in Business and Professions Code (BPC) section 8520.

Ms. Saylor stated that she spoke with John Sansone from the fumigation enforcement group for Los Angeles, Orange, San Diego and Santa Clara counties and that he is aware of the January 1, 2023 sunset date for the fumigation enforcement group written into BPC section 8698.6.

DISCUSSION AND POSSIBLE ACTION ON THE SPCB'S COMPLIANCE WITH U.S. ENVIRONMENTAL PROTECTION AGENCY PESTICIDE APPLICATOR REGULATIONS

Mr. Skelton stated that the SPCB has submitted its proposed timeline to the USEPA and is now waiting for approval in order to move forward with implementation.

DISCUSSION AND POSSIBLE ACTION ON THE SALE AND INSTALLATION OF INSULATION WITH PESTICIDAL PROPERTIES

Mr. Good stated that this topic is broader than the way it is written on the Agenda and announced his intention to form an ad hoc Committee to discuss the topic and report back to the SPCB with recommendations. Mr. Good further stated that the scope of the Committee will cover the sale, marketing, and sub-contracting associated with pesticidal insulation by both Branch 2 and Branch 3 registered companies. Mr. Good indicated that he would like both legal counsel and representation from the Contractors State Labor Board (CSLB) to be involved in the Committee's work as well.

Ms. Knight stated that she has already been in contact with CSLB about this issue and has requested that someone with expertise on this topic be included in the Committee meetings.

UPDATE ON THE STATUS OF THE RESEARCH PROPOSALS SELECTED FOR FUNDING AT THE JULY 26, 2018 BOARD MEETING

Ms. Saylor directed the SPCB to the research progress reports included in the meeting materials and noted that 4 of the 5 projects requested, and were granted extensions due to the research complications caused by the pandemic. Ms. Saylor further stated that Dr. Neil Tsutsui has made a request to replace his research assistant which requires SPCB approval.

Ms. Knight stated that this agenda item was not listed as actionable and therefore the SPCB should not vote on a motion to grant Dr. Tsutsui's request to replace his research assistant until a future meeting.

Mr. Finley asked what the process is for making changes to existing research contracts.

Ms. Saylor stated that once a contract is awarded there are certain changes that the Executive Officer is empowered to approve and others that require the approval of the SPCB.

Mr. Good thanked the industry for their hard work and contributions to the research fund that makes these projects possible.

REGULATIONS STATUS UPDATE

Mr. Skelton updated the SPCB on the status of the Pesticide Application Notice Requirements regulatory proposal to amend California Code of Regulations, Title 16, section 1970.4 and add sections 1970.41, 1970.42, and 1970.43. Mr. Skelton stated that the proposed language was submitted to the DCA regulatory review unit and that he is working through the feedback while drafting the initial rulemaking documents. Mr. Skelton stated that the next steps in the process will be the public comment period followed by final rulemaking.

LEGISLATION UPDATE AND POSSIBLE ACTION

Ms. Saylor updated the SPCB on the following legislation:

AB-29 (Cooper) – State Bodies: Meetings – Ms. Saylor stated that AB-29 would require board meeting materials to be made available to the public at the same time it is made available to board members.

Ms. Knight stated that AB-29 is a two year bill and is not moving forward at this time.

AB-105 (Holden) - Upward Mobility Act of 2021: Board and Commissioners: Civil Service: Examinations: Classifications – Ms. Saylor stated that beginning on January 1, 2022 AB-105 would require board member appointments to be made from under-represented groups.

AB-107 (Salas) - Licensure: Veterans and Military Spouses – Ms. Saylor stated that AB-107 would require the issuance of a temporary license within 30 days to the spouses of military personnel that apply for licensure. Ms. Saylor added that AB-107 also requires that a determination be made if regulations are necessary to implement its provisions, and if they are, that they be drafted no later than June 15, 2022.

Ms. Knight stated that there could be cost and process issues associated with AB-107 as it could require the creation of a new license type in the SPCB's licensing database.

Ms. Saylor stated that the costs associated with AB-107 would most likely be minor and absorbable because the SPCB has not traditionally processed many applications for military personnel.

AB-225 (Gray) - DCA: Boards: Veterans: Military Spouses: Veterans – Ms. Saylor stated that AB-225 does not apply to the SPCB.

AB-646 (Low) - Department of Consumer Affairs: Boards: Expunged Convictions – Ms. Saylor stated that AB-646 is a two year bill and is not moving forward at this time.

SB-607 (Roth) - Professions and Vocations – Ms. Saylor stated that SB-607 would require the SPCB to waive the application fees for applicants who are already licensed in another jurisdiction and are married to an active duty military member in California.

SB-731 (Durazo) – Criminal Records: Relief – Ms. Saylor stated that beginning on July 1, 2022 SB-731 would require the Department of Justice (DOJ) to review their records and remove convictions for anyone convicted of a felony after July 1, 2005 who has met all of the post-conviction conditions and has not had a new conviction for 4 years.

FUTURE AGENDA ITEMS

There were no future agenda items identified at this time.

BOARD CALENDAR

The following 3 meetings were scheduled for:

October 19 & 20, 2021 in Sacramento

March 22 & 23, 2022 in Sacramento

July 19 & 20, 2022 in Claremont

ADJOURNMENT

The meeting was adjourned at 12:04 P.M.

Curtis Good, President Date

DRAFT