

MINUTES OF THE  
ANNUAL MEETING OF THE  
STRUCTURAL PEST CONTROL BOARD  
OCTOBER 16 AND 17, 2003

The meeting was held on Thursday and Friday, October 16 and 17, 2003, at The Riverside Courtyard by Marriott, 1510 University Avenue, Riverside, California, commencing at 1:21 PM with the following members constituting a quorum:

Michael Roth, President  
Jean Melton, Vice President  
Bill Morris (October 17, 2003 only)  
Mustapha Sesay  
Gregory Traum

Board members Karl Thurmond and Ken Trongo were not present

Board staff present:

Kelli Okuma, Executive Officer  
Susan Saylor, Assistant Executive Officer  
Dennis Patzer, Enforcement  
Barbara Howe, Licensing

Departmental staff present:

Donald Chang, Legal Counsel  
Kurt Heppler, Legal Counsel

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

**I. ROLL CALL**

Ms. Saylor read the roll call.

**II. REINSTATEMENT HEARINGS**

The Board sat with Administrative Law Judge Elizabeth Reed Feyzbakhsh and Deputy Attorney General Rita Lane Medellin to hear the Petitions for Reinstatement of Ronald Magyari, Field Representative's License No. 23510, Dave R. Pulu, Field Representative's License No. 24688, and Ronald W. Hughes, Operator's License No. 4128. The petitioners were informed they would be notified by mail of the Board's decision.

### **III. CLOSED SESSION**

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

The meeting recessed at 3:33 PM.

The meeting reconvened at 9:03 AM on Friday, October 17, 2003.

### **IV. FLAG SALUTE**

Mr. Roth announced there would be no flag salute as there was no flag.

### **V. PUBLIC HEARING TO AMEND SECTION 1970 OF TITLE 16 OF THE CALIFORNIA CODE OF REGULATIONS TO REQUIRE THAT BRANCH 3 COMPANIES RETAIN FUMIGATION LOGS**

Mr. Chang announced for the record that the date was October 17, 2003, the time was 9:05 AM and the meeting was being held in Riverside. 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 proposed changes to Board regulation section 1970 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 the Board formally adopted the proposed amendment to the regulations, or recommended changes that may evolve as a result of the hearing.

Mr. Chang announced that if any interested person desired to provide oral testimony, it would be appreciated if he or she stood or came forward, giving their name, address and name of any organization they represented, for a complete record, which was being made by tape recorder. After all interested parties have been heard, the issue would stand submitted. He then 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.

Mr. Chang stated that under current law registered companies are required to maintain a fumigation log of each fumigation job performed. This amendment would require a fumigation contractor to provide to his prime contractor a complete fumigation log within ten working days after the fumigation was completed and also require the prime contractor to retain the fumigation logs for at least three years. Mr. Chang then asked for comments.

John Sansone, Fumigator's Group of Southern California, commented that:

- He had sent in written comments for consideration. He stated he had been involved with the fumigation industry for 30 years; he has helped upgrading standards, working on several board and association committees. He has spend his entire career working to bring the industry into compliance with laws and regulations. He felt the proposal would not serve its intended purpose, as there were practices already in place with the Structural Pest Control Board and the Agricultural Commissioner's Offices for the inspection of records. He commented that Los Angeles and Orange Counties reported only three log violations in the past year. He felt there were few technical Branch 3 licensees who would understand what was on the fumigation log and the amendment would merely create busy work. He stated if there were a problem and the fumigator went out of business, having access to the log would not help because the fumigation would have to be re-done anyway. He stated the Fumigator's Group recommended the proposal be rejected.

John Van Hooser, Ultratech Division, commented that:

- He had no objection to the amendment; he did not think it was burdensome or a problem.

Michael Sansone, Cardinal Professional Products, commented that:

- He was opposed to the amendment. If it passed, however, he recommended submitting the information on the 10<sup>th</sup> of every month, because it would coincide with filing pesticide use reports to the Ag Commissioner's office. He had been a fumigator for almost 25 years and could relate to the burdensome and time-consuming aspects of photocopying, filing and re-filing, in addition to the burden to outlying offices. He felt more work was needed and asked that the proposal not be passed at this time.

Linda Osten, Exclusively Fumigation, commented that:

- The Initial Statement of Reasons is incomplete as the specific purpose states the purpose is to add language. She felt the specific purpose of the amendment should be to protect something or someone and did not understand why it would be to add language. Concerning the Factual Basis/Rationale, she asked what the real issue was at stake if the amendment did not pass. Concerning Underlying Data, she stated there should be a reason for adding or changing a law. Concerning Business Impact, she felt there would be impact because companies would have to hire additional labor for photocopying, faxing, mailing, etc. She asked the amendment be reconsidered at this time.

Tom Osten, Good Buy Termite, commented that:

- As a termite company he saw absolutely no value to being required to retain the record. It would just create more documents to keep track of. There were certification statements and fumigation notices already and if he needed the fumigation log he could go to the company and ask for it. He requested the amendment not be passed.

John Sansone, Fumigator's Group of Southern California, commented that:

- Two fumigation companies submitted written comments, Your Way Fumigation and Mission City Fumigation, and they were probably the largest in the State of California, with multiple branches. Both had taken a stand against the amendment, feeling it was

extremely burdensome with no benefit or consumer protection to having the document reviewed by a Branch 3 company for clarity or accurate information. He stated these two companies requested their comments be considered also, as they were unable to attend today's meeting.

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

Mr. Roth asked Tom Osten to mention a circumstance that would warrant his calling the subcontractor for a copy of the fumigation log.

Tom Osten replied none. He stated perhaps twice in the past 15 years he had received a call asking for additional information on a completed fumigation.

Mr. Morris felt dangerous substances were used in fumigation, so he was concerned about record keeping, responsibility and the safety of the consumer. It was not important to him that it would take extra effort to document the paperwork. He felt the ultimate end result of the safety of the consumer and proper record keeping were more important. He wondered who was responsible, the Branch 3 company or the fumigator and if the amendment passed would there be a change in their responsibility.

Mr. Chang replied both parties would maintain responsibility and the amendment would ensure there was an accurate log. Because there had been situations in the past where logs had been altered, the amendment was a method to prevent alterations.

Mr. Sesay asked for comments from the audience on how much work would be added to a Branch 3 company if the amendment passed.

John Van Hooser, Ultratech Division, commented: very little.

Tom Osten, Good Buy Termite, said that might be true for Northern California, but it would add a tremendous amount of work in Southern California.

John Sansone, Fumigator's Group of Southern California, said during the normal course of operation there were three parts to be filled out on the fumigation log, which would have to then be copied and either mailed or faxed in a fashion that did not compromise the standard format of the form. An average company could complete 200 fumigations a month; that is a lot of additional work for each company. If a problem were genuinely being resolved, he would be in favor of the amendment. Relative to consumer protection, the log has specific information for the fumigator. If there was some value in sending it to a Branch 3 company that would protect the consumer, he would be in favor of it as well, but the information was already readily available to the prime contractor.

Mr. Sesay asked if the amendment would enhance record keeping.

John Sansone said the records were already kept at the Agricultural Commissioner's Office and the Board can perform spot records office checks also. He said when the Agricultural Commissioners perform yearly inspections, they pulled about a month's worth of records,

reviewing as many as 100-200 fumigation logs to make sure they were appropriately completed. He questioned who would enforce the amendment, as there were two entities already involved: the Ag Department and the Structural Pest Control Board. Regardless of where the log was maintained, it would still require regulatory people to go out to an office. He felt the amendment would only duplicate records already in the fumigator's office; it would be extra work and would not protect the consumer at all.

Mr. Patzer said the amendment was based on concerns from Board specialists who found instances of altered fumigation logs being supplied by subcontractors to prime contractors. He felt it would enhance the ability of the specialist performing an office records check, by comparing subcontractor's records to a prime contractor's records.

Lee Whitmore, Beneficial Fumigation, stated he was against the amendment. He said if a company were altering records, the amendment would not prevent them from continuing to do just that.

John Sansone asked Mr. Patzer if the Board staff had an electronic calculator and if they had been trained in its use.

Mr. Patzer replied yes.

John Sansone said he now sits on the Fumigation Enforcement Committee, and there had been only one or two instances of record alterations that he knew of. From his experience of 30 years in the industry he felt this was not a major problem, nor was the amendment a good solution if the problem did exist.

Dave Franklin, Franklin-Van Hooser Seminars, stated he did not feel this was a good amendment, and that it appeared to be just for enforcement purposes. Any company could ask for the fumigation log and if there was a problem, they could find another fumigator. He did not feel industry needed this regulation.

Jim Mitchell, San Bernardino County Agricultural Commissioner's Office, stated he was neither for nor against the amendment, but did want everyone to know his office performed headquarters inspections of both Branch 1 and Branch 3 companies, taking a very close look at the fumigation logs of the Branch 1 companies.

Mr. Morris asked why Branch 3 companies would not want a copy of the fumigation log if they were the ones who initiated the request. With the severity of this type of business performance, he thought that it should not be a voluntary situation. He thought it should be a mandatory requirement and if he were a Branch 3 company he would want documentation showing the fumigation had been done correctly.

Tom Osten commented he was involved in fumigations now, but before that he would not have known what to look for on the fumigation log or what it said, nor would he have taken the time to read it or calculate the chemicals. He was only interested in the Branch 1 being a good company, being honest, and having the company provide him with certification statements to complete his completion notices.

Ms. Melton commented that as a Branch 3 company she required the fumigation log be sent to her and she kept it as a record. She was not necessarily for mandatory submissions but from a business perspective, she wanted to know everything that was going on for her company. She sometimes did competitive bidding and when somebody measured she felt she was responsible to know what was supposed to be in the building, and the log helped her a lot. She stated these things kept her straight and provided a lot of good information in her files.

Ms. Melton moved and Mr. Sesay seconded to adopt the proposed amendment to section 1970 of the California Code of Regulations. The motion did not carry (Aye – Sesay. No – Melton, Traum. Abstain – Morris, Roth.)

## **VI. APPROVAL OF JULY 18 AND SEPTEMBER 30, 2003, BOARD MEETING MINUTES**

Ms. Okuma brought to the attention of the board members typographical errors on pages 13, 14 and 20 of the July 2003 board meeting minutes.

Ms. Melton moved to approve the minutes of the meetings of July 18, 2003, as corrected, and September 30, 2003. Passed unanimously.

Mr. Roth introduced Department of Consumer Affairs' legal counsel Kurt Heppler.

## **VII. REGISTRAR'S REPORT**

Ms. Okuma introduced Kathleen Boyle from the Department of Pesticide Regulation (DPR), reporting that she and Mr. Patzer had worked with Ms. Boyle on a variety of issues in the past and she was very pleased that DPR had allowed Ms. Boyle to attend meetings and work with staff on related issues.

Ms. Okuma reported on adverse impacts of the current budget issues. A number of Board and Department staff had been identified as surplus employees. These employees face uncertainty in their continued employment. Some have found employment elsewhere, and others continue to seek employment. Vacancies are not being filled due to the hiring freeze, and vacant positions potentially may be lost. As a result, some services provided by and to the Board are no longer being provided or are not being provided in a timely manner.

Ms. Saylor reported on the following:

- One and one-half vacant positions were permanently cut from the Board.
- Elizabeth James, identified as a surplus employee, found employment at another state agency. Ms. James was responsible for conducting the 2002 license renewal audit.
- Employee unions asked their memberships to vote on a five percent cut in pay, which has been agreed upon, in order to reduce the number of people affected by potential layoffs.

- Approximately 3,000 renewals were processed for the 2003 renewal cycle and random audits of those renewals are scheduled shortly.
- Licensing statistics were reviewed with the Board members.
- Part of the Strategic Plan was to go forward with electronic submission of WDO reporting. A vendor has been identified and the project should be completed by the end of 2003, ahead of the projected July 2004 timeline.
- Senate Bill 907 authorizes the Board to collect background information on all new applicants and that process begins January 2004.

Mr. Morris asked if personnel cutbacks would affect Strategic Plan goals and if so, which ones.

Ms. Okuma replied that in all probability the Strategic Plan would be affected but until the exact cutbacks are known, identification was problematic.

Mr. Patzer reported on the following:

- Contractor's State License Board provided a mailing list of all C61 – D64 licensees to whom a letter will be sent letting them know that pest control work for pigeon control / exclusion requires a Structural Pest Control Board license.

Ms. Okuma distributed the list of closed complaint cases for the last quarter, asking the Board members to each annotate a case for review.

In response to Mr. Morris' request to research how other Board's approach strategic planning, Ms. Okuma reported that she contacted four other boards. All four either have conducted their planning sessions using a Department facilitator, or would be doing so in the near future.

## **VIII. ANNUAL REVIEW OF BOARD PROCEDURES**

Mr. Roth asked if the Board members had any suggested amendments to the Board's procedures. There were no comments from the Board or the public.

## **IX. STRATEGIC PLAN UPDATE**

Ms. Okuma reported:

- Objective 1.1 – Broaden Public Participation and Involvement – 20 groups were contacted and invited to attend and participate in Board meetings and activities.

Mr. Morris requested to be updated with specific names of groups contacted.

- Objective 1.2 – Publish the Board Newsletter – no action pending budget concerns.

Mr. Morris questioned the frequency in which the newsletter would be published.

Ms. Okuma reported that a quarterly printing would be ideal, however, the funding is not yet clear.

- Objective 1.3 – Keep the Board Website Current – Currently, updates occur in reaction to a specific issue rather than proactively reviewing and updating.
- Objective 1.4 – Develop Stronger Partnerships with Other Agencies – Ongoing.
- Objective 2.1 – Development and Implement a Written Survey to Determine What Licensees Are Doing with Regard to Industry Practices – Mr. Patzer is in the process of developing a marketing plan.
- Objective 2.2 – Review the Rules and Regulations to Ensure Effectiveness – This item will be reported on as a separate agenda item later in the meeting.
- Objective 2.3 – Complete the Development and Implementation of Regulations Governing the Use of Termite Baits – Adopted regulations are in the process of approval by control agencies.
- Objective 2.4 – Recommend Uniform Standards for Approving and Not Approving Educators and Allocations of Credit; and Ways to Restructure the Means and Methods of Providing Continuing Education to Licensees – The committee appointed this task will make its report and recommendations later in the meeting.
- Objective 2.5 - Complete the Process of Filing WDO Activities Online – Scheduled for implementation by the end of the calendar year.
- Objective 3.1 – Provide the Board with Enforcement Information – Ongoing.
- Objective 4.1 – Report on the Use of Computer Based Testing – No progress based on continued budget restrictions.
- Objective 5.1 – Professionalize Board Meetings – Ongoing.
- Objective 5.2 – Enhancing Telephone System for Quality Control Purposes – No progress based on continued budget restrictions.

Bill Gillespie requested he be allowed to make comments regarding a big problem in things that should be addressed during the Board's strategic planning meeting. He questioned if his comments should be made now or during the public comment portion of the meeting. Mr. Roth suggested his comments would be more appropriate during public comments. Mr. Gillespie asked the he be allowed enough time to make his comments.

**X. PROPOSED AMENDMENT OF SECTION 1934 TO SPECIFY THAT COURSE COMPLETION MUST TAKE PLACE PRIOR TO PASSING THE LICENSED OPERATOR'S EXAMINATION**

Section 8565.5 of the Business and Professions Code states that license applicants must have successfully completed a board approved course within a three-year period prior to taking the operator's licensing examination. The proposed amendment of section 1934 would stated that successful completion of that course must take place within three years of passing the operator's licensing examination.

Mr. Roth asked the Board to vote in favor of notice the amendment of section 1934 as proposed for public hearing. The Board unanimously voted to take no action on the proposal.



## **XI. CONTINUING EDUCATION COMMITTEE REPORT AND RECOMMENDATIONS**

Doug Carver, Chair, reported on the final recommendations of the Continuing Education Committee as follows:

Establish a board appointed standing committee comprised of one board member as chairperson, and an equal number of course providers and non course providers to review applications for course approval as needed, and to conduct audits of approved courses.

Ms. Melton moved and Mr. Sesay seconded to establish a standing continuing education committee comprised of one board member and an equal number of course providers and non-course providers to review applications for course approval upon request of the Registrar or her designee. Passed unanimously.

Develop a quality control survey of examination questions covering rules and regulations and technical subject areas to be sent to a random number of renewal candidates as a quality control method to determine if continuing education is an effective method of educating licensees.

Mr. Morris moved and Mr. Sesay seconded to take no action on the recommendation. Passed unanimously.

Mr. Roth requested that the issue of how to conduct an audit of continuing education courses be placed on the next board meeting agenda.

Develop regulatory language that would comply with FIFRA requirements as it pertains to the State Plan and re-certification of licensees in regards to Pesticide Use and Worker Health and Safety requirements.

Mr. Sesay moved and Mr. Traum seconded to table this matter in order to allow staff and legal counsel to consider all the issues. Passed unanimously.

Amend license renewal application to contain clear information on the continuing education hour renewal requirements and clearly identify the consequences of failure to comply.

Mr. Morris moved to direct staff to amend the license renewal application as proposed. Passed unanimously.

Develop list of acceptable adult education courses pursuant to section 1950.5(b), and post listing on Board's website and/or provide with license renewal application.

Mr. Sesay moved and Mr. Morris seconded to direct staff to update the continuing education section of the Board's website to better describe the type of activities approved as "adult education courses" pursuant to section 1950.5(b). Passed unanimously.

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 so 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) Operators and field representatives shall gain 20 continuing education hours if licensed in one branch of pest control, 24 hours if licensed in two branches of pest control, and 28 hours if licensed in three branches of pest control. ~~licensed in one branch of pest control shall gain 16 continuing education hours during each three year renewal period. Operators licensed in two branches of pest control shall gain 20 continuing education hours during each three year renewal period. Operators licensed in three branches of pest control shall gain 24 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 held by the licensee must be gained for each branch license, a minimum of four continuing education hours shall be in an ethics activity, 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. Four of the total hours shall be in any category of the licensees' choice.

~~(d) Field representatives licensed in one branch of pest control shall have completed 16 continuing education hours, field representatives licensed in two branches of pest control shall have completed 20 continuing education hours, field representatives licensed in three branches of pest control shall have completed 24 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 held by the licensee must be gained for each branch of pest control 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)~~ (f) Operators who hold a field representative's license in a branch of pest control 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 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.

Ms. Melton moved and Mr. Traum seconded to notice the proposed amendment of section 1950 for public hearing. Passed unanimously.

Amend Section 1950.5 as follows:

§1950.5. Hour Value System.

The following hour values shall be assigned to the educational activities approved by the Board. All educational activities must be submitted to the Board for approval before presentation for continuing education credit, in accordance with section 1953. Each activity approved for technical or rules and regulations continuing education hours must include a written examination to be administered at the end of the course. Examinations administered at the end of the course must consist of ten questions per one hour of instruction, with 40 questions minimum for any activity of instruction of four hours or more. Licensees must obtain a passing score of 70% or better in order to obtain a certificate of course completion. If the examination is failed, the licensee shall be allowed to be reexamined by taking a different examination within sixty days.

(a) Accredited college courses - 10 hours for each 2 semester-unit course; 16 hours for each 3 semester-unit course.

(b) Adult education courses - 6 hours

(c) Professional seminars or meetings - up to a maximum of 6 hours per seminar or meeting. Additional hours may be approved depending on the complexity of the activity and its relevance to new developments in the field of pest control.

(d) Technical seminars or meetings - up to a maximum of 6 hours per seminar or meeting. Additional hours may be approved depending on the complexity of the activity and its relevance to new developments in the field of pest control. ~~Each approved technical seminar or meeting must include an examination to be administered at the end of the course. Licensees must obtain a passing score of 70% or better in order to obtain a certificate of course completion. If the examination is failed, the licensee shall be allowed to be reexamined by taking a different examination within sixty days.~~

(e) Operators' courses approved by the Board pursuant to section 8565.5 of the code - 1 hour per hour of instruction.

(f) Correspondence courses developed by the Board pursuant to section 8565.5 of the code - full credit per branch.

(g) Correspondence courses approved by the Board - hours will be assigned depending on the complexity of the course and its relevance to new developments in the field of pest control.

~~(h) Equivalent activities, including teaching approved courses and publishing technical articles - 1 to 6 hours per activity, depending on the complexity of the activity and its relevance to new developments in the field of pest control.~~

~~(i)(h)~~ Association meetings - 1 hour for every hour of instruction up to a maximum of 4 hours per meeting.

~~(j)(i)~~ Structural Pest Control Board meetings - 2 hours per meeting, up to a maximum of ~~6~~ 4 hours per renewal period (excluding Board Members.)

~~(k)(j)~~ Structural Pest Control Board Committee meetings - 1 hour per meeting, up to a maximum of 2 hours per renewal period (excluding Board Members).

~~(l)(k)~~ In-house training in technical subjects - 1 hour per hour of instruction.

~~(m)(l)~~ Board approved Rules and Regulations courses - 1 hour for every hour of instruction. ~~Each approved activity must include an examination to be administered at the end of the course. Licensees must obtain a passing score of 70% or better in order to obtain a certificate of course completion. If the examination is failed, the licensee shall be allowed to be reexamined by taking a different examination within sixty days.~~

Ms. Melton moved to notice the proposed amendment of section 1950.5 for public hearing. Passed unanimously.

Mr. Roth requested that the recommendation from Larry Musgrove, Western Exterminator Company, that Board meetings be approved to include one rule and regulation hour and one general hour, and to exempt it from examination requirements be placed on the agenda for the next board meeting.

Amend Section 1951 as follows:

§1951. Examination in Lieu of Continuing Education.

In lieu of continuing education, a licensee ~~licensed operator or field representative~~ may qualify for renewal by taking and passing an examination designed by the Board to cover developments in the field of pest control. Licensees ~~Licensed operators or field representatives~~ who choose this method of qualifying for renewal may take this examination only once, and must take the examination no earlier than one year prior to their license expiration date. A score of 70% or higher shall be considered a passing grade on this examination.

Mr. Sesay and Ms. Melton moved to notice the proposed amendment of section 1951 for public hearing. Passed unanimously.

Amend Section 1953 as follows:

§1953. Approval of Activities.

(a) Providers of activities of continuing education in pest control shall request approval as a provider and of activities on forms provided by the Board (See Form 43M-18 (Rev. 3/87) at the end of this section) accompanied by the required fees. Requests for approval of activities must be submitted to the Board no later than 60 days prior to presentation of the activity unless exception is granted by the Registrar.

(b) All providers must notify the Board 30 days prior to the presentation of any board approved activity, unless exception is granted by the Registrar.

(c) All providers must submit a course attendance roster (See Form No. 43M-46(New 3/93) at the end of this section) to the Structural Pest Control Board within five working days after every course instructed.

(d) After giving the provider a written notice and an opportunity to respond, the Board may withdraw approval of any activity, when good cause exists. Good cause shall include, but not be limited to, failure actually to meet the standards for approval of activities which are outlined in subsection (f) of this section.

(e) Unless otherwise indicated on the written notification of approval, or unless an approval is withdrawn by the Board at an earlier date, approval of each activity shall remain in effect for 3 years.

(f) In order to be approved, activities must be:

- (1) Directly related to the field of structural pest control;
- (2) Provided by an institution, association, university, or other entity assuming full responsibility over the course program;
- (3) Composed of a formal program of learning which requires:

A) attendance and participation, and which provides

- (B) at least one hour of instruction;
  - (C) a syllabus (detailed outline of the main points of the curriculum);
  - (D) an evaluation method on Form No. 43M-39 (NEW 5/87 Rev. 10/03), costs of postage which shall be incurred by the provider (which is printed at the end of this section),
  - (E) a certificate of completion on Form No. 43M-38 (NEW 5/87) (which is printed at the end of this section); and,
- (4) Conducted by an instructor who has qualified by meeting two of the following experience requirements:
- (A) Completion of training in the subject of the activity,
  - (B) Six months' experience working in the area covered by the activity within the preceding three years,
  - (C) Experience teaching a activity of similar content within the preceding five years,
  - (D) Completion of any post-secondary studies related to the subject matter of the activity,
  - (E) Author of the activity being reviewed, or a credentialed instructor.
- (g) No activity which focuses on the policies, or procedures or products of a single firm, or which consists of meetings which are a normal part of in-house staff or employee training shall be approved.

<b><u>STUDENT QUESTIONNAIRE</u></b>					
<p>The Structural Pest Control Board would like your feedback on the continuing education activity you have just taken. Please fill out this card and submit this evaluation form directly to the Structural Pest Control Board. Do not submit this form to the course provider.</p>					
Course No. _____	Disagree – Strongly Agree				
	1	2	3	4	5
1. I learned something new during this course.					
2. Examination questions reflected the course materials.					
3. The provider covered the topic(s) adequately.					
4. The course meets your expectations.					
5. How could this course be improved?					
<p>_____</p> <p>_____</p>					
Name (optional) _____					
You may contact the Structural Pest Control Board by email, by going to our website: <a href="http://www.pestboard.ca.gov">www.pestboard.ca.gov</a> .					

43M-39 (New 5/87 Rev. 10/03)

Mr. Traum moved and Mr. Sesay seconded to notice the proposed amendment of section 1953(f) for public hearing. Passed unanimously.

Mr. Sesay moved to direct staff to draft amended language of section 1953(g) to make clear that continuing education cannot be extended to courses which focus on sales and marketing activities of any type and to notice the proposed amendment of section 1953(g) for public hearing. Passed unanimously.

## **XII. LAWS AND REGULATIONS COMMITTEE REPORT AND RECOMMENDATION TO AMEND SECTION 1918 – SUPERVISION OF REGISTERED COMPANIES BY QUALIFYING MANAGERS**

Larry Musgrove, Chair, reported on the recommendations of the Laws and Regulations Committee as follows:

§1918. Supervision of Registered Companies and Branch Offices.

“Supervise” as used in Business and Professions Code Sections 8506.2, 8610 and 8611 ~~of the code means actual on-site supervision~~ the oversight, direction, control, and inspection of the daily business of the company and its employees, and the availability to observe, assist, and instruct company employees, as needed to secure full compliance with all laws and regulations governing structural pest control.

In cases of ownership of more than one registered company by the same sole owner, corporation or partnership where the qualifying manager or managers cannot supervise ~~provide actual on-site supervision to~~ each registered company because of the location of the companies, the qualifying manager or managers ~~registered company~~ may designate an individual or individuals licensed as an operator or as a field representative in the branch or branches of business being conducted to supervise the companies ~~provide actual on-site supervision. This~~ The designated supervisor or supervisors ~~supervision~~ must be under the direct supervision of the qualifying manager or managers. ~~This~~ Any such designation of supervisors ~~supervision~~ does not relieve the qualifying manager or managers of responsibility ~~his or her responsibilities~~ to supervise as required in sections 8506.2 and 8610.

Mr. Roth moved and Mr. Sesay seconded to approve the modified language, authorize staff to notice a 15-day modification, and if no adverse comments are received, to authorize the registrar to adopt the modifications as noticed. Passed unanimously.

## **XIII. APPROVAL OF DISCIPLINARY REVIEW COMMITTEE MEMBERS**

Mr. Roth requested a vote to recommend Bruce Ebnetter to the Department of Pesticide Regulation (DPR) for appointment to the Disciplinary Review Committee (DRC). Mr. Ebnetter was not approved for appointment to the DRC (Aye – Roth, Sesay. No – Melton, Morris, Traum).

Mr. Roth requested a vote to recommend Peter Giammarinaro to DPR for appointment to the DRC. Passed unanimously.

Mr. Roth requested a vote to recommend Jack Launius to DPR for appointment to the DRC. The motion did not pass (Aye – Traum, Morris. No – Melton, Roth. Abstain – Sesay).

#### **XIV. STATUS OF LEGAL REVIEW OF LAWS AND REGULATIONS**

Mr. Roth moved to direct staff to work with legal counsel to develop a work plan to complete the legal review of the laws and regulations, and if possible, implement the plan at reasonable cost to be determined by the registrar and report back to the board at the next board meeting. Passed unanimously.

#### **XV. PROPOSED LEGISLATIVE EXEMPTION FROM REQUIREMENT THAT BRANCH 2 LICENSEES OBTAIN A DEPARTMENT OF FISH AND GAME TRAPPING LICENSE**

Mr. Patzer reported that he attended a meeting with the Department of Fish and Game (DFG), Department of Pesticide Regulation (DPR), and California Nuisance Wildlife Control Operator's Association to discuss whether DPR and SPCB are required to be licensed by DFG for trapping activities involving fur bearing non-game species. DFG contended that a new law (SB 1645) gave it jurisdiction for all trapping activities of all persons trapping for hire in California. Mr. Patzer recommended the Board seek a legislative amendment for exemption for its licensees from the DFG licensing requirement.

Virginia Handley, The Fund for Animals, sponsor of the legislation requiring licensure, informed the Board that SB 1645 was never aimed at structural pest control licensees. The Fund for Animals does not believe there is a need for exemption from licensure as the law does not impact the Board's licensees. She urged the Board to wait for pending regulations before acting. Any overlap could be addressed through the regulatory process.

Harvey Logan, Pest Control Operator's of California (PCOC), requested that the Board seek legislation or endorse legislation to exempt Board licensees from licensure with DFG.

Mr. Sesay moved and Mr. Morris seconded to endorse a legislative proposal to seek exemption for Board licensees from licensure with DFG under SB 1645. Passed unanimously.

#### **XVI. REVIEW AND ACTION REGARDING PROPOSALS FOR STRUCTURAL PEST CONTROL RESEARCH**

Ms. Okuma reported that Richard Standiford, UC Project Coordinator with The Regents of the University of California, informed her that the University has made a significant effort already relative to the release of the research grant Request for Proposals (RFP) and would not entertain the Board's request to re-write and re-release the RFP. She offered two alternatives to the Board, to either locate and contract with a new entity to prepare and release a new RFP, or direct staff to re-write and release a new RFP.

Mr. Morris moved and Mr. Sesay seconded to direct staff to administer the RFP in the most expeditious manner as possible. Passed unanimously.

## **XVII. BOARD MEETING CALENDAR**

The next Board Meeting will be held January 22 and 23, 2004, in Berkeley. The following meeting will be held April 22 and 23, 2004, in Oxnard or that general vicinity.

## **XVIII. PUBLIC COMMENTS FOR ITEMS NOT ON THE AGENDA**

Robert Tallie, Hi Tech Termite Control out of San Diego, reported that the recent amendment of the inspection report form and completion notice is not consistent with the WDO activity disk provided by the Board. He was advised to contact Susan Saylor or Dennis Patzer of the Board as the amendments to the forms should have no impact on the submission of data via the disk.

Bill Gillespie offered the following as suggestions of what the Board should be covering in its strategic planning, but wanted the Board to understand that there are problems. He addressed the public members specifically, telling them that it is their responsibility to look out for the public interest, as industry members put forth industry standpoint. He told the public members that they are aloof, with no way to reach them. He wrote one letter to one public member and never received a response. He reminded the members of the serious problems of conflict of interest he spoke of at a previous board meeting, telling the Board that the problem stemmed from past Boards. Now he is not so sure. He believes that the four public members are not doing their job of looking into his allegations. He did not appreciate Mr. Roth's letter advising him that the Board was very interested in looking into the allegations he made at that meeting, and requesting all documents in his possession substantiating the allegations. Mr. Gillespie informed Mr. Roth that that would not happen. He stated that he had been down that road before. To Mr. Roth, he stated, "You are going to circle the wagons, aren't you? You're not going to look into it." He stated that he wrote a letter to Mr. Roth clearly explaining that he was not going to comply with the request. Mr. Gillespie informed the Board that they need to make themselves accessible.

Mr. Morris commented that, with due respect to Mr. Gillespie as he appreciates a lot of his comments as they have merit, he felt as if Mr. Gillespie was admonishing the Board, and he did not think this was permissible.

Mr. Gillespie questioned if this was not a public meeting and asked if he could not say what he wanted as a public member addressing public service.

Mr. Morris asked Mr. Gillespie if he could address his topics in a more un-personal manner and in a more professional manner, and not to admonish the Board members as he did not believe this was constructive to Mr. Gillespie's concerns.

Mr. Roth stated that he believes that if Mr. Gillespie wants to admonish the Board as part of the public comments, then he is entitled to admonish the Board. He asked Mr. Gillespie to continue, noting that he did not agree with anything he said other than that he did receive a letter from Mr. Gillespie, writing a letter in return. He stated that Mr. Gillespie had already summarized part of his letter back to the Board, and did want to allow Mr. Gillespie to continue.



Mr. Gillespie stated that to fix part of the problem, the Board members should publish their name, address and telephone numbers to they will be accessible to members of the public who have grave concerns about the integrity of the board , committee operations, things above and beyond the regular consumer complaints. The good old –boy industry network can call industry members as they are accessible. He has encountered an aloofness when it comes to the public members. He told the Board that some years past, there was a woman attorney public board member with whom he had a nice conversation about the interrelationship between federal and state law. A short time later, he had a conversation with her and her response to his questions was that he needed to get his own attorney to answer his questions. He questioned how many public members of the Board attended the recent ASPCRO meeting in California, stating that none were in attendance at this very beneficial meeting when he looked around the room at the conference. He noted that industry members were there to participate in the valuable networking with other states, but no public members. He questioned Mr. Roth relative to his new supervisory duties of Board staff. Mr. Roth informed him that his duties as president are listed in the published procedure manual and are very public. Mr. Gillespie asked Mr. Roth how many times he visited the Board to see what is going on. Mr. Roth responded that this was a time for public comments and this was not a deposition. Mr. Gillespie stated that he does not have the sense that Mr. Roth knows what is going on at the Board. The staff may need assistance, or to portray problems to him. Mr. Gillespie told Mr. Roth that he would know of some of the things he was telling him about if he had only been in the Board office. He commented that there was no adequate oversight of the committee operations. He gave credit to Mr. Morris as making good suggestions relative to Board membership and participation at committee meetings, but then questioned Mr. Morris' change of opinion when he stated that he did not want to have a Board member make the committee members feel uncomfortable by having a Board member present. He questioned why public board members are there if not to provide some oversight. He asked if the public members were afraid to learn if something was going bad. He reported that the continuing education committee members comported themselves very differently when either Mr. Morris, Ms. Melton, or Ms. Okuma were not there to oversee the activities of the committee. Mr. Gillespie stated that board members need to be at committee meetings, if not chair of committee meetings. He stated that public members need to subscribe to industry magazines to learn about issues before the Board, to attend ASPCRO meetings, establish a code of conduct for all board members, and new qualified members on all committees. Mr. Gillespie stated that the Board needs to comply with the Business and Professions Code 540.4 that states that one public member must have expertise in the regulated profession. Mr. Chang informed Mr. Gillespie that the law changed, and that is no longer a requirement. Mr. Gillespie apologized if he came on strong, yet he has formed committees, served on committees, was president of organizations, specifically Phi Ci Omega, and has never had to come on so strong. But with this Board he has had to do so. He supports the pest control industry, and has done so for thirty years. He has held responsible positions, serving as the industry representative in hearings before the Small Business Administration, and has developed Code of Federal Regulations. He is pro-industry, but is against violations of public trust and against conflict of interest.

John Van Hooser commented that he has no public comments, but in the future, he will keep his comments short and brief.

Mr. Roth stated that the members of the Board are doing the very best job they can, and they do take the consumer to heart. One of the best things about being president for this past year, is the ability to work with public and industry members who have been every bit the champion of the consumer as the public members. He sees the Board doing exactly what it is supposed to do, not comprised of factions, which has made his job as president so much more pleasant and enjoyable. He thanked all those in attendance and those not in attendance for their support this past year. He stated that he knew that Ms. Melton would do a phenomenal job as president.

Mr. Sesay thanked Mr. Roth on behalf of all the board members for the phenomenal job he did as president.

Mr. Roth adjourned the meeting at 3:33 PM.

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JEAN MELTON, President

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KELLI OKUMA, Registrar

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DATE