

MINUTES OF THE
WATER QUALITY COMMITTEE
STRUCTURAL PEST CONTROL BOARD

The meeting was held on Wednesday, April 4, 2007, at the Structural Pest Control Board, 1418 Howe Avenue, Sacramento, California, commencing at 10:00 AM with the following members constituting a quorum:

Leonard Fromer, M.D., Chair
Jerry Farris
Eric Paulson
Tom Mumley

Board Staff Present:

Kelli Okuma, Registrar
Kurt Heppler, Board Counsel
Dennis Patzer, Analyst

Leonard Fromer M.D. called the meeting to order at 10:05 AM

Agenda Item I. Roll Call

All committee members were present.

Dr. Fromer asked for introductions of others present at the meeting. The following persons introduced themselves: Nita Davidson, a scientist with the Department of Pesticide Regulation; Robert Baker, an employee of Clark Pest Control; Darren Van Steenwik, an employee of Clark Pest Control; Jim Brown, Operator D & M Termite Company; Mark Rentz, Deputy Director of Policy Coordination Department of Pesticide Regulation; Dave Tamayo, Environmental Specialist County of Sacramento; Pari Pachamuthu, PH.D., B.C.E., Western Exterminator Company; and a late arrival John Kaplan.

Agenda Item II. Approval of Minutes

Dr. Fromer asked for a motion of approval or to amend the minutes of the Water Quality Committee meeting held on Thursday, September 7, 2006. Eric Paulson moved that the minutes be approved and Jerry Farris seconded the motion. There were no public comments. The minutes were approved by unanimous consent.

Agenda Item III. Development of Proposals to Address Water Quality As It Relates to Structural Pest Control

Eric Paulson stated that one of the key issues discussed at the last meeting of the Water Quality Control Committee was the role of associations and government in the adoption of a certification program. Part of the discussion was whether the Structural Pest Control Board had a role in oversight of a certification process.

Paulson stated that after about six months of working with the Association of Bay Area Governments (ABAG), the Pest Control Operators of California (PCOC) has sent a formal proposal to address their concerns. Paulson passed out a letter from PCOC to EcoWise / ABAG. The letter proposed that instead of trying to create a duplicative licensing program similar to the Structural Pest Control Board, ABAG should create a site certification program. The letter made nine recommendations regarding a site certification program.

The committee discussed the pertinence of the letter to the issue at hand.

Integrated Pest Management (IPM) and its role in water quality issues were discussed. Participation in integrated pest management programs by structural pest control companies and site operations were discussed. It was determined that both pest control operations and site operations play a vital role in the success of an IPM program. Certification of pest control companies, pest control personnel and site operations was discussed.

Mark Rentz stated that the committee should take into consideration the Department of Pesticide Regulations view that California's demographics are changing and government should be looking for a strategy to accommodate this ongoing change. Rentz stated that the pest control industry should be prepared to reduce risks involving water contamination through IPM.

Kurt Heppler asked if there was an accepted definition of IPM. It was determined through committee discussion that there is conceptual agreement on what IPM is but there is not a uniform definition of IPM as it relates to the structural pest control industry.

Kurt Heppler stated that the Structural Pest Control Board needs a definition of what IPM is in order to enforce laws and regulations as they pertain to board licensees, should IPM be included in licensee activities subject to administrative action.

The committee discussed the inclusion of IPM as part of the continuing education mandated for license renewal and for pre-qualification prior to initial licensure.

Eric Paulson made a motion that the committee recommend to the board that IPM be part of the continuing education requirement for renewal of Branch 2 and Branch 3 licenses. Dr. Fromer seconded the motion.

MOTION: The committee recommends that the Structural Pest Control Board require “Integrated Pest Management” be part of the continuing education requirement for renewal of Branch 2 and Branch 3 licenses.

Public comments were taken. The motion was approved by unanimous consent.

The committee discussed the encouragement of structural pest control operations to develop and use IPM to ensure protection of water quality. Also discussed was encouragement of consumers of pest control services to participate and use IPM in pest management programs.

The committee discussed site certification and individual certification in the use of IPM.

The committee discussed the Structural Pest Control Board’s jurisdictional authority to encourage facilities to use IPM practices. Kurt Heppler said that he would have to do research to determine if the board had jurisdictional authority in this matter.

The committee discussed whether the Structural Pest Control Board had jurisdictional authority to encourage its licensees to use IPM. Kurt Heppler said that the board conceptually had the authority to require that its licensees inform consumers regarding the availability of IPM services, but that he would have to research that authority.

Eric Paulson made a motion that the committee make a recommendation to the Structural Pest Control Board to create a requirement for licensees to attend courses dealing with integrated pest management and classes dealing with water quality, specifically the impact that their services have on water quality. The committee recommends that this be incorporated in the current hours required for licensure. Jerry Farris seconded the motion.

A friendly amendment by Eric Paulson was made to apply the motion specifically to Branch 2 and 3 licensees (applicators, field representatives and operators).

MOTION: The committee recommends that the Structural Pest Control Board create a requirement Branch 2 and 3 licensees (applicators, field representatives and operators) to attend courses dealing with integrated pest management and classes dealing with water quality, specifically the impact that their services have on water quality. The committee recommends that this be incorporated in the current hours required for licensure.

Public comments were taken. A vote was taken on the motion and it was approved by unanimous consent.

Eric Paulson made a motion that the committee make a recommendation to the Structural Pest Control Board that it determine a definition for “Integrated Pest Management”. This definition would be for purposes of encouraging the industry and the public to adopt integrated pest management practices and for purposes

of claims of practicing integrated pest management and integrated pest management continuing education. Jerry Farris seconded the motion. Public comments were taken. A friendly amendment by Mark Rentz was made that the Structural Pest Control Board, in consultation with the Department of Pesticide Regulation, develop an "Integrated Pest Management" definition.

MOTION: The committee recommends to the Structural Pest Control Board that it, in consultation with the Department of Pesticide Regulation, determine a definition for "Integrated Pest Management" for purposes of encouraging the industry and the public to adopt integrated pest management practices and for purposes of claims of practicing integrated pest management and integrated pest management continuing education.

Public comments were taken. A vote was taken on the motion and it was approved by unanimous consent.

Eric Paulson made a motion that the committee recommend to the Structural Pest Control Board that it modify current pre-licensing training requirements and examinations for branches 2 and 3 (field representatives, and operators) to include integrated pest management and water quality concerns. Jerry Farris seconded the motion.

Public comments were taken.

Kurt Heppler said that the motion should take into consideration Business and Professions Code Section 139 that the requirements be consistent with statutory authority.

A friendly amendment was made by Dr. Fromer to include verbiage that requirements be consistent with statutory authority.

MOTION: The committee recommends to the Structural Pest Control Board that it modify current pre-licensing training requirements and examinations for branches 2 and 3 (field representatives, and operators) to include integrated pest management and water quality concerns and that the requirements be consistent with statutory authority.

Public comments were taken. A vote was taken on the motion and it was approved by unanimous consent.

Agenda Item IV. Development of Proposals to Amend Existing False and Misleading Advertisement Regulations

Kurt Heppler said that the Structural Pest Control Board had a proposal that the board should amend Section 1999.5 of the California Code of Regulations. Heppler said that the proponents requesting amendment of the regulation wanted the Structural Pest Control Board or the committee to adopt amendments that they submitted. Heppler said that the proposed amendment has been placed on the Structural Pest Control Board's meeting agenda for April 20, 2007.

The committee discussed whether it would make recommendations to the Structural Pest Control Board regarding the proposal to amend the regulation. Reference was made to the letter submitted by the proponents, Altshuler Berzon, LLP, and the letter was provided to the committee.

John Kaplan said that while the regulation was designed to protect the consumer from false and misleading advertising, it does not provide a “safe harbor” for claims of legitimate environmentally superior services. Kaplan stated that the regulation should be amended to reflect a balance regarding claims.

Kelli Okuma said that the regulation served as a basis for citation, fine, orders of abatement, and licensing action when violation occurs.

The committee discussed the proposed amendments in the letter submitted to the committee.

Eric Paulson made a motion that committee recommend to the Structural Pest Control Board that it take no action on modifying section 1999.5 of the California Code of Regulations.

MOTION: The committee recommends to the Structural Pest Control Board that it take no action to amend section 1999.5 of the California Code of Regulations as specifically proposed by Altshuler Berzon, Attorneys at Law.

Public comments were taken. A vote was taken on the motion and it was approved by unanimous consent.

Dr. Fromer made a suggestion for a motion that the committee resolve that the Structural Pest Control Board revise Section 1999.5 to prohibit general claims of environmental benefit or safety but allow specific truthful, not misleading claims such as “we don’t use pesticides on the 303D list;” “we use pesticides endorsed by an agency” (if the agency has in fact endorsed them); “no proposition 65 products used” in an expeditious manner.

Discussion ensued. Dr. Fromer made the motion. Jerry Farris seconded the motion.

Discussion ensued. Eric Paulson moved to remove “product” from the motion. Dr. Fromer seconded the motion.

MOTION: The following be taken up by the Structural Pest Control Board expeditiously to revise section 1999.5 of the California Code of Regulations to prohibit general claims of environmental benefit, but to allow specific truthful non-misleading claims such as: “We don’t use 303 D list pesticides.” “We use pesticides / products endorsed by various governmental agencies.” “No Proposition 65 products used.”

Jerry Farris made a motion to revise the previous motion to read.

Public comments were taken. The vote was taken and the motion did not carry. The following votes were made: Dr. Fromer – Yes; Tom Mumley – Yes; Jerry Farris – No; Eric Paulson – No.

Jerry Farris made a motion that the following be taken up by the Structural Pest Control Board expeditiously to revise section 1999.5 of the California Code of Regulations to prohibit general claims of environmental benefit, but to allow specific truthful, substantiated non-misleading claims such as: “We don’t use 303 D list pesticides.” “We use pesticides / products endorsed by various governmental agencies.” “No Proposition 65 products used.” Dr. Fromer seconded the motion.

MOTION: That the following be taken up by the Structural Pest Control Board expeditiously to revise section 1999.5 of the California Code of Regulations to prohibit general claims of environmental benefit, but to allow specific truthful, substantiated non-misleading claims.

Public comment was taken. A vote was taken on the motion it was approved by unanimous consent.

The committee discussed recommending adding one more public member to the committee. The committee asked that the subject be added to the upcoming Structural Pest Control Board agenda for the April 20, 2007, meeting.

The meeting adjourned at 2:05 P.M.

Minutes approved on 6/26/07

Leonard Fromer, M.D., Chairman